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NEW DELHI, FEBRUARY 15-FEBRUARY 21, 2009, SATURDAY/MAGHA 26-PHALGUNA 2, 1930

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पुस्तक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (H)
PART II—Section 3—Sub-section (H)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

विधि और न्याय मंत्रालय

(विधि कार्य विभाग)

नई दिल्ली, 3 फरवरी, 2009

का.आ. 407.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उपधाता (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री वीरेन्द्रनाथ बी. तिवारी, अधिवक्ता को, मुम्बई उच्च न्यायालय में भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय द्वारा या उसके विरुद्ध सभी दंडिक मामलों का, जिनके अंतर्गत दंडिक रिट याचिकाएँ, दंडिक अपीलें, दंडिक पुनरीक्षण, दंडिक निर्देश और दंडिक आवेदन भी हैं, संचालन करने के प्रयोजन के लिए इस शर्त के अधीन रहते हुए श्री वीरेन्द्रनाथ बी. तिवारी, अपर लोक अभियोजक के रूप में अपनी नियुक्ति की अवधि के दौरान भारत संघ या केन्द्रीय सरकार के किसी विभाग या कार्यालय के विरुद्ध ऊपर निर्दिष्ट किसी दंडिक मामले में मुम्बई उच्च न्यायालय में उपसंजात नहीं होंगे, इस अधिसूचना के प्रकाशन की तारीख से एक वर्ष की अवधि के लिए या अगले आदेश होने तक, इनमें से जो भी पूर्वतर हो, अपर लोक अभियोजक के रूप में नियुक्त करती है।

[सं. एफ 23(2)/2009-न्यायिक]

एम. ए. खान यूसुफी, संयुक्त सचिव और विधि सलाहकार

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

New Delhi, the 3rd February, 2009

S.O. 407.—In exercise of the powers conferred by sub-section (1) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Virendranath B. Tiwari, Advocate as Additional Public Prosecutor for the purpose of conducting all criminal cases including criminal writ petitions, criminal appeals, criminal revisions, criminal references and criminal applications by or against the Union of India or any Department or Office of the Central Government, in the High Court of Judicature at Mumbai, with effect from the date of publication of this notification in the Official Gazette, for a period of one year or until further orders, whichever is earlier, subject to the condition that Shri Virendranath B. Tiwari, Advocate, shall not appear against the Union of India or any Department or Office of the Central Government in any criminal case referred to above, in the High Court of Judicature at Mumbai during the period of his appointment.

[F.No. 23(2)/2009-Judl.]

M. A. KHAN YUSUFI, Jt. Secy. & Legal Adviser

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 13 फरवरी, 2009

का.आ. 408.—केंद्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिल्ली उच्च न्यायालय में केंद्रीय अन्वेषण ब्यूरो के अधिवक्ता एवं रिटेनर काउंसिल श्री विकास पाहवा को दिल्ली विशेष पुलिस स्थापना द्वारा अन्वेषित मामलों में अभियोजन चलाने, अपील, पुनरीक्षण या इनसे उद्भूत अन्य कार्रवाईयों के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/4/2009-एवीडी-II]

चंद्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 13th February, 2009

S.O. 408.—In exercise of the powers conferred by the provisions of sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Vikas Pahwa, Advocate and Retainer Counsel of Central Bureau of Investigation, in the Delhi High Court as Special Public Prosecutor, for conducting prosecution, appeals, revision or other matters arising out of the cases investigated by the Delhi Special Police Establishment.

[No. 225/4/2009-AVD-II]

CHANDRA PRAKASH, Under Secy.

नई दिल्ली, 16 फरवरी, 2009

का.आ. 409.—केंद्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए आंध्र प्रदेश राज्य सरकार, गुह (एससीए) विभाग की अधिसूचना सं. जी.ओ.एम.एस. सं. 100 दिनांक 13 फरवरी, 2009 द्वारा प्राप्त सहमति से मैसर्स सत्यम कम्प्यूटर सर्विसिज लि. में घोटाले के संबंध में अपराध अन्वेषण विभाग, पुलिस स्टेशन हैदराबाद में दर्ज अपराध सं. 2/2009 दिनांक 9 जनवरी, 2009 के संबंध में भारतीय दंड संहिता 1860 (1860 का अधिनियम सं. 45) की धारा 120-बी संपठित धारा 406, 420, 467, 471 और 477-ए के अधीन दर्ज आपराधिक मामले और उसी संव्यवहार के अनुक्रम में किए गए अथवा उन्हीं तथ्यों से उद्भूत किन्हीं अन्य अपराधों को दर्ज और इनका अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण आंध्र प्रदेश राज्य पर करती है।

[सं. 228/6/2009-एवीडी-II]

चंद्र प्रकाश, अवर सचिव

New Delhi, the 16th February, 2009

S.O. 409.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25

of 1946), the Central Government with the consent of the State Government of Andhra Pradesh, Home (SC. A) Department vide Notification G.O. Ms. No. 100 dated 13th February, 2009, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Andhra Pradesh for investigation of Crime No. 2/2009 dated 9th January, 2009 under Section 120-B read with Sections 406, 420, 467, 471 and 477-A of the Indian Penal Code, 1860 (Act No. 45 of 1860) relating to the accounting scam in M/s. Satyam Computers Services Limited registered at Crime Investigation Department Police Station, Hyderabad and attempts, abetments and conspiracies in relation to or in connection with the offence mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/6/2009-AVD-II]

CHANDRA PRAKASH, Under Secy.

कार्यालय मुख्य आयकर आयुक्त, जयपुर

जयपुर, 5 फरवरी, 2009

सं. 15/2008-09

का.आ. 410.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23 सी) की उप धारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2008-09 एवम् आगे के लिए कथित धारा के उद्देश्य से "डुण्डलोद शिक्शन संस्थान, पो.-डुण्डलोद, जिला-झुंझुनू" को स्वीकृति देते हैं।

बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधानों के अनुरूप कार्य करे।

[क्रमांक : मुआआ/अआआ/(मु.)/जय/10(23सी)/(vi)/08-09/3855]

बी.एस. दिल्ली, मुख्य आयकर आयुक्त

OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX

New Delhi, the 5th February, 2009

No. 15/2008-09

S.O. 410.—In exercise of the powers conferred by sub-clause (vi) of clause (23-C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Dundlod Shikshan Sansthan, Post-Dundlod, Dist.-Jhunjhunu" for the purpose of said Section for the A.Y. 2008-09 & onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCTI/JPR/Addl. CIT(Hqrs.)/10(23C)(vi)/2008-09/3855]

B. S. DHILLON, Chief Commissioner of Income-tax

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 9 फरवरी, 2009

का.आ. 411.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 21 के साथ पठित, धारा 21 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श से, एतद्वारा, डॉ. कल्याण कुमार गगोई, निवासी म. नं. 10, गली नं. 2, तरुण नगर, गुवाहाटी-5 को, अधिसूचना की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेश होने तक, जो भी पहले हो, गुवाहाटी स्थित भारतीय स्टेट बैंक के स्थानीय बोर्ड के सदस्य के रूप में नामित करती है :—

[फा. सं. 9/19/2008-बीओ-1]

जी. बी. सिंह, उप सचिव

MINISTRY OF FINANCE
(Department of Financial Services)
New Delhi, the 9th February, 2009

S.O. 411.—In exercise of the powers conferred by clause (c) of sub-section (1) of Section 21, read with Section 21A of the State Bank of India Act, 1955 (23 of 1955), the Central Government, in consultation with Reserve Bank of India, hereby nominates Dr. Kalyan Kumar Gagoi, Resident of House No. 10, By lane No. 2, Tarun Nagar, Guwahati-5, to be a member of the Local Board of the State Bank of India at Guwahati for a period of three years, from the date of notification or until further orders, whichever is earlier.

[F. No. 9/19/2008-BO-I]

G B. SINGH, Dy. Secy.

नई दिल्ली, 13 फरवरी, 2009

का.आ. 412.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा, घोषित करती है कि धारा 10 की उप धारा (1) के खण्ड (ग) के उपखण्ड (i) के उपबंध, बैंक आफ बड़ौदा पर उस सीमा तक लागू नहीं होंगे जहां तक उनका संबंध श्री एम.डी माल्या, अध्यक्ष एवं प्रबंध निदेशक, के (i) लाइफ इंश्योरेंस जेवी कंपनी और (ii) कृषि वित्त निगम लिमिटेड के बोर्ड में निदेशक का पद लेने से है।

[फा. सं. 20/7/2005-बीओ-1]

जी.बी. सिंह, उप सचिव

New Delhi, the 13th February, 2009

S.O. 412.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Bank of Baroda in so far as it relates to taking up directorship of Shri M.D. Mallya, Chairman & Managing Director on the Boards of (i) Life Insurance JV Company and (ii) Agricultural Finance Corporation Limited.

[F.No. 20/7/2005-BO-I]

GB. SINGH, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

(आयुर्वेद, योग व प्राकृतिक चिकित्सा, युनानी, सिद्ध एवं होम्योपैथी विभाग)

शुद्धिपत्र

नई दिल्ली, 10 फरवरी, 2009

का.आ. 413.—केन्द्रीय सरकार, होम्योपैथी केन्द्रीय परिषद् अधिनियम, 1973 (1973 का 59) की धारा 13 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय होम्योपैथी परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की द्वितीय अनुसूची में एतद्वारा निम्नलिखित और संशोधन करती है, अर्थात् :—

स्तंभ (1) के अधीन भारत के राजपत्र, असाधारण भाग II, खंड 3, उपखंड (ii) में तारीख 14 जनवरी, 2009 को प्रकाशित भारत सरकार के स्वास्थ्य और परिवार कल्याण मंत्रालय (आयुर्विभाग) की अधिसूचना सं. का.आ. 226(अ) में 13वखण्ड में 'जे. आर. नागर राजस्थान विश्वविद्यालय, उदयपुर' के स्थान पर 'जे. आर. नागर राजस्थान विद्यापीठ विश्वविद्यालय, उदयपुर' पढ़ा जाएगा।

[फा.सं. आर. 14013/13/2004-एचडी]

टी. एस. भाटिया, उप सचिव

टिप्पण : मूल अधिसूचना भारत के राजपत्र, भाग II, खंड 1 में का.आ. 76 तारीख 20 दिसम्बर, 1973 द्वारा प्रकाशित की गई थी और इसमें अंतिम संशोधन का.आ. सं. 338 (अ) तारीख 20 जनवरी, 2009 द्वारा किया गया।

MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy)

CORRIGENDUM

New Delhi, the 10th February, 2009

S.O. 413.—In exercise of the powers conferred by sub-section (2) of Section 13, of the Homoeopathy Central Council Act, 1973 (59 of 1973), the Central Government, after consulting the Central Council of Homoeopathy, hereby makes the following further amendments in the Second Schedule to the said Act, namely :—

In the notification of the Government of India in the Ministry of Health and Family Welfare (Department of AYUSH), No. S.O. 226 (E) dated 14th January, 2009 published in the Gazette of India, Extraordinary Part II, Section 3, Sub-section (ii) under column (1), '13DDB' shall be read as 'J.R. Nagar Rajasthan Vidyapeeth University, Udaipur' instead of 'J.R. Nagar Rajasthan University, Udaipur'.

[F.No. R 14013/13/2004-HD]

T. S. BHATIA, Dy. Secy.

Note: The principal notification was published in the Gazette of India, Part II, Section 1, vide number, 76 dated the 20th December, 1973 and last amended vide S.O. number 338 (E) dated the 20th January, 2009.

सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय

नई दिल्ली, 6 फरवरी, 2009

का.आ. 414.—केंद्रीय सरकार, राजभाषा नियम, 1976 के (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 10 के उप-नियम (4) के अनुसरण में, सूक्ष्म, लघु और मध्यम उद्यम मंत्रालय के नियंत्रणाधीन खादी और ग्रामोद्योग आयोग के निम्नलिखित कार्यालयों में हिन्दी का कार्यसाधक ज्ञान रखने वाले कर्मचारियों की संख्या 80% से अधिक हो जाने के फलस्वरूप उन्हें एतद्वारा अधिसूचित करती है :

1. राज्य कार्यालय, खादी और ग्रामोद्योग आयोग, 5 डिंगल इस्टेट, कार्ट रोड, शिमला (हिमाचल प्रदेश)-171003
2. राज्य कार्यालय, खादी और ग्रामोद्योग आयोग, 2/15, दानी हाउस, गोविन्दनगर, रायपुर (छत्तीसगढ़)-492001
3. राज्य कार्यालय, खादी और ग्रामोद्योग आयोग, महादेव सिंह रोड, कांवली, देहरादून (उत्तराखण्ड)-248001
4. मंडल कार्यालय, खादी और ग्रामोद्योग आयोग, बाहेती भवन, रानी बाजार, बीकानेर (राजस्थान)-334001
5. राज्य कार्यालय, खादी ग्रामोद्योग आयोग, ई-ब्लॉक, चौथा माला, कैपिटल कमर्शियल सेन्टर, एलिस ब्रिज, आश्रम रोड, अहमदाबाद (गुजरात)-380009

[सं. ई-12016/01/2005-हिन्दी]

प्रवीर कुमार, संयुक्त सचिव

MINISTRY OF MICRO, SMALL AND MEDIUM ENTERPRISES

New Delhi, the 6th February, 2009

S.O. 414.—In pursuance of sub rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices of the Khadi & Village Industries Commission under control of the Ministry of MSME, where the percentage of Hindi knowing staff has gone above 80%:

1. State Office, Khadi & Village Industries Commission, 5 Dingle Estate, Cart Road, Shimla (Himachal Pradesh)-171003
2. State Office, Khadi & Village Industries Commission, 2/15, Dani House, Govind Nagar, Raipur (Chhattisgarh)-492001
3. State Office, Khadi & Village Industries Commission, Mahadev Singh Road, Kanwali, Dehradun (Uttarakhand)-248001
4. Divisional Office, Khadi & Village Industries Commission, Baheti Bhavan, Rani Bazar, Bikaner (Rajasthan)-334001
5. State Office, Khadi & Village Industries Commission, E-Block, 4th Floor, Capital Commercial Centre, Ellis Bridge, Ashram Road, Ahmedabad (Gujarat)-380009.

[No. E-12016/01/2005-Hindi]

PRAVIR KUMAR, Jt. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 5 फरवरी, 2009

का.आ. 415.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के उपनियम, (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :-

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा मा संख्या	भाग	अनुभाग	वर्ष
1	2	3	4	5	6	7	8	9
1.	7885408	28-11-08	रेकॉन इंडस्ट्रीज स.नं. 108, प्लॉट नं. 69/ए, रेलवे क्रासिंग के पास, हडपसर, जिला-पुणे-411013	पैकेजबंद पेयजल (पैकेजबंद प्राकृतिक मिनरल जल के अलावा)	14543			2004
2.	7890195	28-11-08	मौर्य ज्वैलर्स, दुकान नं. 1, 618 गुरुवार पंठ, मिथगंज पुलिस चौकी के पास, पुणे-411002	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता और चिह्नांकन	1417			1999

1	2	3	4	5	6	7	8	9
3.	7890805	19-11-08	डोमेन इलेक्ट्रीकल्स प्लॉट नं. 70, एमआईडीसी इंडस्ट्रीयल एरिया, चिकलथाना, जिला-औरंगाबाद-431210	ओपनवैल समसिबल पम्पसेट्स	14220			1994
4.	7891197	3-12-08	ओसवाल ज्वैलर्स, दुकान नं. 4, स.नं. 9, महात्मा फुले पेठ, कस्तूरी चौक के पास, जिला-पुणे-411002	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता और चिह्नांकन	1417			1999
5.	7891504	3-12-08	बागडे ज्वैलर्स, 650, कसार गली, ए/पी एवं तालुका श्रीगोंडा, जिला-अहमदनगर 413701	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता और चिह्नांकन	1417			1999
6.	7893306	2-12-08	फिनोलेक्स इंडस्ट्रीज लिमिटेड, (उरसे पाइप डिवाजन) गट संख्या 399, गांव उरसे, तालुका-मावल, जिला-पुणे-410506	अंडरग्राउंड नालियों और सीवरज सिस्टम के लिए अनप्लास्टिसाइज्ड गैरदावित पॉलीविनायल क्लोराइड (पीवीसी-यू) पाइप्स	15328			2003
7.	7893811	16-12-08	महावीर गोल्ड, दुकान नं. 6, वसंतदादा संकुल, भांगरवाडी रोड, लोनावाला, तालुका मावल, जिला-पुणे-410401	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता और चिह्नांकन	1417			1999
8.	7894712	19-12-08	रेर डायमंड हब, दुकान नं. 23, कुमार प्लाजा, 8, एम जी रोड, केम्प, जिला-पुणे-411001	स्वर्ण और स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी-शुद्धता और चिह्नांकन	1417			1999

[सं. सी एम डी/13 : 11]

पी. के. गम्भीर, उपमहानिदेशक (मुहर)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARD

New Delhi, the 5th February, 2009

S.O. 415.—In pursuance of sub-regulation (5) of the Bureau of Indian Standards (Certification) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following Schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name & Address of the Party	Title of the Standard	IS No.	Part	Section	Year
1	2	3	4	5	6	7	8	9
1.	7885408	28-11-08	Reckon Industries, S.No. 108, Plot No. 69/A, Near Railway Crossing, Hadapsar, District Pune-411013	Packaged drinking water (Other than packaged natural mineral water)	14543			2004

1	2	3	4	5	6	7	8	9
2.	7890195	28-11-08	Maurya Jewellers, Shop No.1, 618 Guruwar Peth, Near Mithganj Police Chowky, Pune-411002	Gold and gold alloys, jewellery/artefacts - Fineness and marking	1417			1999
3.	7890805	19-11-08	Domain Electricals, Plot No. 70, MIDC Indl Area Chikalthana District Aurangabad-431210	Openwell submersible pumpsets	14220			1994
4.	7891197	3-12-08	Oswal Jewellers, Shop No.4, S.No. 9, Mahatma Phule Peth, Near Kasturi Chowk, District Pune-411002	Gold and gold alloys, jewellery/artefacts - Fineness and marking	1417			1999
5.	7891504	3-12-08	Bagade Jewellers, 650, Kasar Galli, A/P & Taluka Shrigonda, District Ahmednagar-413701	Gold and gold alloys, jewellery/artefacts - Fineness and marking	1417			1999
6.	7893306	2-12-2008	Finolex Industries Ltd., (Urse Pipe Division), Gat No. 399, Village Urse, Taluka Maval, District Pune-410506	Unplasticized non- pressure polyvinyl chloride (PVC-U) pipes for use in underground drainage and sewerage systems	15328			2003
7.	7893811	16-12-2008	Mahavir Gold, Shop No.6, Vasantdada Sankul, Bhangarwadi Road, Lonavala, Taluka Maval, District Pune-410401	Gold and gold alloys, jewellery/artefacts - Fineness and marking	1417			1999
8.	7894712	19-12-2008	Rare Diamond Hub, Shop No. 23, Kumar Plaza, 8, M.G. Road, Camp, District Pune-411001	Gold and gold alloys, jewellery/artefacts - Fineness and marking	1417			1999

[No. CMD/13: 11]

P. K. GAMBHIR, Dy. Director (General)

नई दिल्ली, 5 फरवरी, 2009

का.आ. 416.— भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्र. सं.	स्थापित भारतीय मानक (को) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस 61508-2: 2000 : विद्युत/इलेक्ट्रॉनिक/प्रोग्राम योग्य इलेक्ट्रॉनिक सुरक्षा-संबंधी पद्धतियों की कार्यात्मक सुरक्षा-भाग 2 विद्युत/इलेक्ट्रॉनिक/प्रोग्राम योग्य सुरक्षा संबंधी पद्धतियों की अपेक्षाएँ	—	30 अक्टूबर, 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 18/टी-108]

प्रकाश बचानी, वैज्ञा.-ई, एवं प्रमुख (विद्युत तकनीकी वि.)

New Delhi, the 5th February, 2009.

S.O. 416.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standard, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1	IS/IEC 61508-2 : 2000 Functional Safety of Electrical/Electronic/Programmable Electronic Safety-Related Systems Part 2 Requirements for Electrical/Electronic/Programmable Electronic Safety-Related Systems	—	30 October, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 18/T-108]

PRAKASH BACHANI, Sc; E & Head (Electrotechnical Department)

नई दिल्ली, 5 फरवरी, 2009

का.आ. 417.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्र. सं.	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस 61508-0 : 2005 विद्युत/इलेक्ट्रॉनिक/प्रोग्रामयोग्य इलेक्ट्रॉनिक सुरक्षा-संबंधी पद्धतियों की कार्यात्मक सुरक्षा-भाग 0 कार्यात्मक सुरक्षा एवं आई ई सी 61508	—	30 नवम्बर, 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 18/टी-114]

प्रकाश बचानी, वैज्ञ.-ई, एवं प्रमुख (विद्युत तकनीकी वि.)

New Delhi, the 5th February, 2009

S.O. 417.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1	IS/IEC 61508-0 : 2005 Functional Safety of Electrical/Electronic/Programmable Electronic Safety-Related Systems Part 0 Functional Safety and IEC 61508	—	30 November, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 18/T-114]
PRAKASH BACHANI, Sc. E & Head (Electrotechnical Department)

नई दिल्ली, 5 फरवरी, 2009

का.आ. 418.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्र. सं.	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस 61508-5 : 1998 विद्युत/इलेक्ट्रॉनिक/प्रोग्राम योग्य इलेक्ट्रॉनिक सुरक्षा-संबंधी पद्धतियों की कार्यात्मक सुरक्षा-भाग 5 सुरक्षा एकात्मकता स्तर की पद्धतियों के उदाहरण निर्धारित करना	—	30 अक्टूबर, 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : इटी 18/टी-111]

प्रकाश बचानी, वैज्ञा.-ई, एवं प्रमुख (विद्युत तकनीकी विभाग)

New Delhi, the 5th February, 2009

S.O. 418.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standard, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1	IS/IEC 61508-5 : 1998 Functional Safety of Electrical/Electronic/Programmable Electronic Safety-Related Systems Part 5 Examples of methods for The Determination of Safety Integrity levels	—	30 October, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 18/T-111]

PRAKASH BACHANI, Sc. E & Head (Electrotechnical Department)

नई दिल्ली, 5 फरवरी, 2009

क्र.आ. 419.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उप विनियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न विवरण वाले लाईसेंसों को आगे दर्शाई तारीख से लाईसेंस स्वीकृत कर दिया गया है :

अनुसूची

क्रम संख्या	लाईसेंस संख्या	लाईसेंसधारी का नाम एवं पता	लाईसेंस के अंतर्गत प्रक्रम सम्बन्ध एवं भारतीय मानक सहित	स्वीकृत करने की तिथि
(1)	(2)	(3)	(4)	(5)
1.	8978319	मेसर्स अलंकार एलॉयज प्रा. लिमिटेड, ग्राम बोरझारा, ब्लाक पेरसिवा, रायपुर (छ.ग.)	आईएस 1786 : 1985 हाई स्ट्रेंथ डीफार्मड बार	04-11-2008
2.	8981308	मेसर्स महावीर लैमिनिटेड, 660-661, उरला इण्डस्ट्रीयल, पुलिस स्टेशन के पीछे, रायपुर—493221 (छ.ग.)	आईएस 710 : 1976 स्पेसिफिकेशन फार मेरिन प्लाइवुड	11-11-2008
3.	8975818	मेसर्स एम एस पी स्टील एण्ड पावर लि. ग्राम एण्ड पोस्ट, जानगांव, रायगड-496001 (छ.ग.)	आईएस 2830 : 1992 कार्बन स्टील कास्ट बिलेट इंगोट, बिलेट्स, बलूम एण्ड स्लैब्स फार रि-रोलिंग इनटू स्टिल फार जनरल स्ट्रक्चरल्स परपज	11-11-2008
4.	8980811	मेसर्स कृति इण्डस्ट्रीज (इंडिया) लिमिटेड, प्लॉट नं. 75-86, सेक्टर 2, पीथमपुर, जिला धार (म.प्र.)	आईएस 13487 : 1992 एरिगेशन इक्वीपमेंट-एमिटर	12-11-2008
5.	8981914	मेसर्स बी एस पी बेवरेजेस, मायका रोड, गांव कोतमा ब्लॉक, तहसील सोहागपुर, शहडोल-7484001	आईएस 14543 : 2004 पैकेजड ड्रिंकिंग वाटर	12-11-2008
6.	8981005	मेसर्स श्री व्यंकटेश कंक्रीट उद्योग, प्लॉट नं.-84, सेक्टर-आई, इण्डस्ट्रीयल एरिया, गोविन्दपुरा, भोपाल (म.प्र.)	आईएस 458 : 2003 प्रिकास्ट कंक्रीट पाइप्स	14-11-2008
7.	8981409	मेसर्स एस के सरावगी एण्ड कं. प्रा.लिमिटेड, प्लॉट नं. 38 से 41 एण्ड 48 से 52 इण्डस्ट्रीयल एरिया, सिलतारा, फेस II, रायपुर (छ.ग.)	आईएस 1786 : 1985 हाई स्ट्रेंथ डीफार्मड बार	14-11-2008
8.	8981510	मेसर्स रौनक पेन्ट थर्म्स, 120-डी, इण्डस्ट्रीयल एरिया, पोलाग्राउंड, सावैर रोड, इंदौर	आईएस 4985 : 2000 अनप्लास्टीसाईज्ड पीपीसी पाइप्स फॉर पोटेबल वाटर सप्लाईज-विशिष्ट	14-11-2008
9.	8982310	मेसर्स झोलिया इलेक्ट्रोडस प्रा. लि. खसरा नं. 53/3, 54, 55/2, 58/1, 59, 60/1, 61, गांव-सीलतारा, ब्लाक-धरसिवा, रायपुर (छ.ग.)	आईएस 2830 : 1992 कार्बन स्टील कास्ट बिलेट इंगोट, बिलेट्स, बलूम एण्ड स्लैब्स फार रि-रोलिंग इनटू स्टिल फार जनरल स्ट्रक्चरल्स परपज	14-11-2008
10.	8983211	मेसर्स अंकित स्टिलस, 243/3, 243/8, 245/1, 245/2, 12/2 रिंग रोड नं. 2, गोंडवारा, रायपुर (छ.ग.)	आई एस 2062 : 2006 स्टिल फार जनरल स्ट्रक्चरल्स परपज	18-11-2008
11.	8986520	मेसर्स परूल बेवरेजेस, खसरा नं. 306, धामधा रोड, गांव मुरा, तहसील धामाधा, कुमहारी, दुर्ग (छ.ग.)	आईएस 14543 : 2004 पैकेजड ड्रिंकिंग वाटर	18-11-2008

(1)	(2)	(3)	(4)	(5)
12.	8983514	ज्वेलस सिमलेस लिमिटेड, प्लॉट नं. 159, सेक्टर नं. 03, इण्डस्ट्रीयल एरिया, पथिमपुर, धार	आईएस 2830 : 1992 कार्बन स्टील कास्ट बिलेट इंगोट, बिलेटस, बलूम एण्ड स्लैब्स फार रि-रोलिंग इनटू स्टील फार जनरल स्ट्रक्चरल्स परपज	19-11-2008
13.	8986621	मेसर्स गोदावरी पावर एण्ड इस्पात लिमिटेड, 428/2, फेस-1, इण्डस्ट्रीयल एरिया, सिलतारा, रायपुर	आईएस 2831 : 1992 कार्बन स्टील कास्ट बिलेट इंगोट, बिलेटस, बलूम एण्ड स्लैब्स फार रि-रोलिंग इनटू लो टेन्साइल स्ट्रक्चरल्स स्टील	25-11-2008
14.	8984920	मेसर्स राधे कृष्णा बेवरेजेस, बिलासपुर रोड, पुलिस स्टेशन के सामने, खमताराई, भानपुरी, रायपुर	आईएस : 14543 : 2004 पैकेज्ड ड्रिंकिंग वाटर	28-11-2008
15.	8985114	मेसर्स कृष्णा आयर्न स्ट्रिप्स एण्ड ट्यूब्स, प्लॉट नं. 813-821ए, उर्ला इण्डस्ट्रीयल एरिया, सरोरा, रायपुर	आईएस 1239 भाग I : 1999 हार्ड स्ट्रेंथ डीफार्मड स्टील बार एण्ड वायर्स फार कंक्रीट रेनफोर्समेंट	28-11-2008
16.	8986318	मेसर्स प्रिमेअर प्लास्टिक पाइप इंडस्ट्रीज, बस स्टैंड के सामने, डोंगरगड-491445 जिला राजनांदगांव (छ.ग.)	आईएस-14151 भाग I : 1999 एरिगेशन इक्वीपमेंट-स्प्रिंकलर पाइप	28-11-2008
17.	8986419	मेसर्स प्रिमेअर प्लास्टिक पाइप इंडस्ट्रीज, बस स्टैंड के सामने, डोंगरगड-491445 जिला राजनांदगांव (छ.ग.)	आईएस 14151 भाग II : 1999 एरिगेशन इक्वीपमेंट-स्प्रिंकलर पाइप	28-11-2008

[सं. केन्द्रीय प्रमाणन/13:11]

पी. के. गम्भीर, उप महानिदेशक (मुहर)

New Delhi, the 5th February, 2009

S.O. 419.—In pursuance of clause (b) of sub regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulation 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences for the month of November, 2008 particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Name and address of the licensees	IS No. and title	Grant Date
(1)	(2)	(3)	(4)	(5)
1.	8978319	M/s. Alankar Alloys Pvt. Limited Village Borjhara, Block Persiva, Raipur-493001 (C.G.)	IS 1786: 1985 Specification for high strength deformed steel bars and wires for concrete reinforcement	04-11-2008
2.	8981308	M/s. Mahavir Laminates 660, 661 Urla Industrial Area, behind Police Station, Raipur (C.G.)	IS 710: 1976 Specification for Marine Plywood	11-11-2008
3.	8986217	M/s. MSP Steel & Power Limited, Village & PO Jangaon, Raigarh-496001	IS 2380: 1992 Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	12-11-2008

(1)	(2)	(3)	(4)	(5)
4.	8980811	M/s. Kriti Industries (India) Limited, 75-86 Sector II, Pithampur, Dist: Dhar	IS 13487: 1992 Irrigation Equipment-Emitters- Specification	12-11-2008
5.	8981914	M/s. BSP Beverages Maika Road, Kotma Block, Sohagpur, Shahdol-484001	IS 14543: 2004 Packaged Drinking Water (other than Packaged Natural Mineral Water)-Specification	12-11-2008
6.	8981005	M/s. Shree Venkatesh Concrete Udyog, Plot No. 84, Sector-1, Industrial Area, Govindpura, Bhopal	IS 458: 2003 Specification for Precast Concrete Pipes (with and without Reinforcement)	14-11-2008
7.	8981409	M/s. S K Sarawagi & Co. (P) Ltd. Plot No. 38 to 41 & 48 to 52, Industrial Area, Siltara, Phase-II, Raipur	IS 1786: 1985 Specification for high strength deformed steel bars and wires for concrete reinforcement.	14-11-2008
8.	8981510	M/s. Raunak Paint Works, 120-D, Industrial Area, Pologround, Sanwer Road, Indore	IS 4985: 2000 Unplasticized PVC Pipes for Potable Water Supplies Specification	14-11-2008
9.	8982310	M/s. Drolia Electrosteels (P) Limited Khasra No. 53/3, 54, 55/2, 58/1, 59, 60/1, 61, Village Siltara, Block Dharsiva, Raipur-493111	IS 2830: 1992 Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	14-11-2008
10.	8983211	M/s. Ankit Steels, 243/3, 243/8, 245/1, 245/2, 12/2, Ring Road, No. 2, Gondwara Raipur	IS 2062: 2006 Steel for General Structural Purposes—Specification	18-11-2008
11.	8986520	M/s. Parul Beverages Khasra No. 306, Dhamda Road, Village Murra, Tehsil Dhamdha Kumhari, Durg	IS 14543: 2004 Packaged Drinking Water (other than Packaged Natural Mineral Water)—Specification	18-11-2008
12.	8983514	M/s. Jewel Seamless Limited, Plot No., 159 Sector 3 Inds. Area Pithampur, Pithampur, Dist: Dhar	IS 2830: 1992 Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	19-11-2008
13.	8986621	M/s. Godawari Power and Ispat Limited, 428/2, Phase I, Industrial Area, Siltara, Raipur.	IS 2831: 2001 Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into Low Tensile structural Steel—Specification	25-11-2008
14.	8984920	M/s. Radhe Krishna Beverages, Bilaspur Road, Opposite Police Station, Khamtarai, Bhanpuri, Raipur	IS 14543: 2004 Packaged Drinking Water (other than Packaged Natural Mineral Water)—Specification	28-11-2008
15.	8985114	M/s. Krishna Iron Strips and Tubes Pvt. Limited, Plot No. 813-821A, Urla Industrial Area, Sarora, Raipur	IS 1239: Part 1: 2004 Specification for high strength deformed steel bars and wires for concrete reinforcement	28-11-2008

(1)	(2)	(3)	(4)	(5)
16.	8986318	M/s. Premier Plastics Pipe Industries Near New Bus Stand Dongargarh-491445 Dist : Rajanandgaon	IS 14151 : Part 1 : 1999 Irrigation Equipment—Sprinkler Pipes—Specification—Part 1 : Polyethylene Pipes	28-11-2008
17.	8986419	M/s. Premier Plastics Pipe Industries Near New Bus Stand Dongargarh-491445 Dist : Rajanandgaon	IS 14151 : Part II : 1999 Irrigation Equipment—Sprinkler Pipes—Specification—Part 2 : Quick Coupled Polyethylene	28-11-2008

[No. CMD/13 : 11]

P. K. GAMBHIR, Dy. Director General (Marks)

नई दिल्ली, 5 फरवरी, 2009

क्र.आ. 420.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्र. सं.	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आईएस 61508-1 : 1998 विद्युत/इलेक्ट्रॉनिक/प्रोग्रामयोग्य इलेक्ट्रॉनिक सुरक्षा-संबंधी पद्धतियों की कार्यात्मक सुरक्षा-भाग 1 सामान्य अपेक्षाएँ	—	30 अक्टूबर, 2008

इन भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 18/टी-107]

प्रकाश बचानी, वैज्ञा.-ई, एवं प्रमुख (विद्युत तकनीकी वि.)

New Delhi, the 5th February, 2009

S.O. 420.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards	No. & Year of the Indian Standards, if any Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS/IEC 61508-1 : 1998 Functional Safety of Electrical/Electronic/Programmable Electronic Safety-Related Systems Part 1 General Requirements	—	30 October, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 18/T-107]

PRAKASH BACHANI, Sc. E & Head (Electrotechnical Department)

नई दिल्ली, 6 फरवरी, 2009

क्र.आ. 421.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि निम्न भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 623: 2008 (समाभेलन आई एस 3404:1979) साईकिल-साईकिल के फ्रेम-विशिष्ट (तीसरा पुनरीक्षण)	623:1993	31 अक्टूबर, 2008
2.	आई एस 5876:2008 पोत निर्माण-हॉपर स्कूपर्स (पहला पुनरीक्षण)	5876:1970	30 नवम्बर, 2008
3.	आई एस 7079:2008 स्वचल वाहन-गैर पेट्रोलियम बेस ब्रेक तरल के साथ प्रयुक्त द्रवचालित ब्रेकिंग पद्धति के हेतु ब्रेक होज असेम्बली-विशिष्ट (तीसरा पुनरीक्षण)	7079:1995	31 अक्टूबर, 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : टी ई डी /जी-16]

राकेश कुमार, वैज्ञानिक-एफ एवं प्रमुख (टी ई डी)

New Delhi, the 6th February, 2009

S.O. 421.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 623: 2008 (Amalgamating IS 3404:1979) Bicycle-Bicycle frames-Specification (Third Revision)	623:1993	31 October, 2008
2.	IS 5876:2008 Shipbuilding-Hopper scuppers (First Revision)	5876:1970	30 November, 2008
3.	IS 7079:2008 Automotive vehicles-Brake Hose assemblies for hydraulic braking systems used with non-petroleum base brake fluid-Specification (Third Revision)	7079:1995	31 October, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: TED/G-16]

RAKESH KUMAR, Scientist F & Head (Transport Engg.)

नई दिल्ली, 6 फरवरी, 2009

का.आ. 422.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए मानक (कों) में संशोधन किया गया/किये गये हैं :—

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक(कों) की संख्या, वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1063:1997 स्वचल वाहन-सपाट बैठने वाले एम 14x1.25 स्पार्क प्लग तथा उनके सिलिंडर शीर्ष में फिटिंग-विशिष्ट (दूसरा पुनरीक्षण)	संशोधन संख्या 1, जनवरी, 2009	31 जनवरी, 2009
2.	आई एस 3172:1997 आंतरिक दहन इंजन-ईंधन इंजेक्शन उपकरण एकल और दोहरी सिर वाले पाइप युग्मक (एकल और दोहरे तिरवाले बैंजो) - विशिष्ट (दूसरा पुनरीक्षण)	संशोधन संख्या 1, दिसम्बर, 2008	31 दिसम्बर, 2008
3.	आई एस 14380:1996 स्वचल वाहन-चुम्बकीय प्रज्ज्वलन प्रणाली के लिये प्रज्ज्वलन कायलों की विशिष्ट	संशोधन संख्या 1, जनवरी, 2009	31 जनवरी, 2009

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : टी ई डी /जी-16]

राकेश कुमार, वैज्ञानिक-एफ एवं प्रमुख (टी ई डी)

New Delhi, the 6th February, 2009

S.O. 422.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. Year and Title of the Indian Standards	No. and Year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1063:1997 Automotive vehicles-M 14 x 1.25 spark plugs with flat seating and their cylinder head housing-Specification (Second revision)	Amendment No. 1, January 2009	31 January 2009
2.	IS 3172:1997 Internal combustion engines-Fuel injection equipment-single and double ended pipe unions (Single and double ended banjo)-Specification (Second revision)	Amendment No. 1, December 2008	31 December 2008
3.	IS 14380:1996 Automotive vehicles-Ignition coils for magneto ignition systems-Specification	Amendment No. 1, January 2009	31 January 2009

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: TED/G-16]

RAKESH KUMAR, Scientist F & Head (Transport Engg.)

नई दिल्ली, 6 फरवरी, 2009

क्र.आ. 423.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 11385:2008 नहरों और क्रास निकासी कार्यों के लिए उपसतह का अन्वेषण-रीति संहिता (पहला पुनरीक्षण)	आई एस 11385:2008 नहरों और क्रास निकासी कार्यों के लिए उपसतह का अन्वेषण-रीति संहिता (पहला पुनरीक्षण)	30 नवम्बर, 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : डब्ल्यू आर डी 5/टी-19]

ए. एम. डेविड, वैज्ञा-ई, निदेशक (जल संसाधन विभाग)

New Delhi, the 6th February, 2009

S.O. 423.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each:

SCHEDULE

Sl. No.	No. Title and year of the Indian Standards Established	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 11385:2008 Subsurface Exploration for Canals and Cross Drainage Works- Code of Practice (First Revision)	IS 11385:2008 Subsurface Exploration for Canals and Cross Drainage Works- Code of Practice	30 November, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: WRD 5/T-19]

A. M. DAVID, Sc-E Director (Water Resources Deptt.)

नई दिल्ली, 6 फरवरी, 2009

क्र.आ. 424.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 13578-2008 बैराज और वियर के लिए उपसतह का अन्वेषण-रीति संहिता (पहला पुनरीक्षण)	आई एस 13578-2008 बैराज और वियर के लिए उपसतह का अन्वेषण-रीति संहिता (पहला पुनरीक्षण)	30 नवम्बर, 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : डब्लू आर डी 5/टी-21]

ए. एम. डेविड, वैज्ञा-ई, निदेशक (जल संसाधन विभाग)

New Delhi, the 6th February, 2009

S.O. 424.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. Title and year of the Indian Standards Established	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 13578:2008 Subsurface Exploration for Barrages and Weirs-Code of Practice (First Revision)	IS 13578:2008 Subsurface Exploration for Barrages and Weirs-Code of Practice	30 November, 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: WRD 5/T-21]

A. M. DAVID, Sc-E Director (Water Resources Deptt.)

नई दिल्ली, 6 फरवरी, 2009

का.आ. 425.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस/आईसी 62271-200 : 2003 उच्च-वोल्टता के स्विचगियर और नियंत्रणगियर भाग 102 प्रत्यावर्ती धारा वियोजक धू-सम्पर्कन स्विच	—	अक्तूबर, 2008

इस भारतीय मानक की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ईटी 08/टी-39]

प्रकाश बचानी, वैज्ञा-ई एवं प्रमुख (विद्युत तकनीकी विभाग)

New Delhi, the 6th February, 2009

S.O. 425.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued:

SCHEDULE

Sl. No.	No. and year of the Indian Standard Cancelled	S O No. & Date published in the Gazette of India Part-II, Section-I, Sub section (ii)	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS/IEC 62271-102 : 2003 High Voltage Switchgear and Controlgear Part 102 Alternating Current Disconnectors and Earthing Switches	—	October 2008

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: ET 08/T-39]

PRAKASH BACHANI, Sc-E & Head (Electrotechnical Department)

नई दिल्ली, 6 फरवरी, 2009

क्र.आ. 426.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसार में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15826-2008 वस्त्रादि-चर्यानुमा एवं रेंटन देने वाली मशीन पर कता तस्सर का धागा-ग्रेडिंग और परीक्षण पद्धतियाँ	लागू नहीं	नवम्बर 2008

अब यह भारतीय मानक बिक्री के लिये उपलब्ध होगा।

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110 002 और इसके क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : टीएक्सडी/जी-25]

पी. भटनागर, वैज्ञानिक-ई एवं प्रमुख (टीएक्सडी)

New Delhi, the 6th February, 2009

S.O. 426.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed has been established on the date indicated against it:—

SCHEDULE

Sl. No.	No. and Year of the Indian Standards Established	No. & year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS15826 : 2008 Tassar Reeling-Cum-Twisting Machine Reeled Yarn-Grading and Methods of Tests	N.A.	November 2008

Henceforth, this standard will be available for sale.

Copy of this Standards is available for sale with HQ at Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and its Regional Offices at New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices at Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: TXD/G-25]

P. BHATNAGAR, Sc. 'E' & Head (Textiles)

नई दिल्ली, 6 फरवरी, 2009

का.आ. 427.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1897 : 2008 विद्युत अनुप्रयोगों के लिए तांबे की पत्ती-विशिष्ट (तीसरा पुनरीक्षण)	आई एस 1897 : 1983	30 नवम्बर, 2008

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110 002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एम टी डी 8/टी-17]

डॉ. (श्रीमति) स्नेह भाटला, वैज्ञानिक एफ एवं प्रमुख (एमटीडी)

New Delhi, the 6th February, 2009

S.O. 427.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. and year of the Indian Standards Established	No. and year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 1897: 2008 Copper strip for electrical purposes-Specification (Third Revision)	IS 1897:1983	30 November, 2008

Copy of this Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune and Thiruvananthapuram.

[Ref: MTD 8/T-17]

DR. (MRS.) SNEH BHATLA, Scientist 'F' & Head (Met Engg.)

कोयला मंत्रालय

नई दिल्ली, 10 फरवरी, 2009

का.आ. 428.—कोयलाधारी क्षेत्र (अधिग्रहण और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, कोयला मंत्रालय, भारत सरकार की दिनांक 4 अक्टूबर, 2008 की अधिसूचना सं. का. आ. 2761 में एतद्वारा निम्नलिखित संशोधन करती है, अर्थात् :-

उक्त अधिसूचना की, अनुसूची में "बी. वन भूमि" के अंतर्गत क्रम सं. 1 में वन का नाम "बिजारी" के बजाय "पोरदा" रखा जाएगा।

[फा. सं. 43015/8/2008-पीआरआईडब्ल्यू-1]

एम. शाहबुद्दीन, अवर सचिव

MINISTRY OF COAL

New Delhi, the 10th February, 2009

S.O. 428.—In exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby makes the following amendment in the notification of the Government of India, Ministry of Coal number S.O. 2761 dated the 4th October, 2008 namely:-

In the said notification, in the SCHEDULE, Name of Forest at Sl. No. 1 under 'B. Forest Land,' shall be substituted by 'Porda' instead of 'Bijari'

[F.No. 43015/8/2008-PRJW-I]

M. SHAHABUDEEN, Under Secy.

शुद्धि-पत्र

नई दिल्ली, 13 फरवरी, 2009

का. आ. 429.—केन्द्रीय सरकार ने कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20), की धारा 9 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के कोयला मंत्रालय की अधिसूचना तारीख 28 नवम्बर, 2008 संख्यांक का. आ. 3273 द्वारा जो भारत सरकार के राजपत्र, भाग II, खंड 3, उप-खंड (ii) तारीख 13 दिसम्बर, 2008 में प्रकाशित की गई थी, का संशोधन करती है, अर्थात् :-

उक्त अधिसूचना में :-

1. अनुसूची के सारांश में : कुल वन भूमि "48.13" एकड़ (लगभग) के स्थान पर कुल वन भूमि "948.13" एकड़ (लगभग) प्रतिस्थापित किया जाएगा।
2. ग्राम चेपाकला के प्लोटों की सूची में :-
 - (i) ग्राम का नाम "चेपाकला" के स्थान पर "चेपाकला" प्रतिस्थापित किया जाएगा।
 - (ii) प्लॉट सं. "622 से 2155" के स्थान पर प्लॉट सं. "622 से 2125" प्रतिस्थापित किया जाएगा।
3. ग्राम आराहरा के प्लोटों की सूची में :-
 - (i) प्लॉट सं. "1994 1999" के स्थान पर प्लॉट सं. "1994 से 1999" प्रतिस्थापित किया जाएगा।
4. ग्राम सिन्दुआरी के प्लोटों की सूची में :-
 - (i) प्लॉट सं. "65, (भाग)" के स्थान पर प्लॉट सं. "65 (भाग)" प्रतिस्थापित किया जाएगा।
5. ग्राम लंगातु के प्लोटों की सूची में :-
 - (i) प्लॉट सं. "540 से 654" के स्थान पर प्लॉट सं. "540 से 645" प्रतिस्थापित किया जाएगा।
6. ग्राम देवरियाखुर्द के प्लोटों की सूची में :-
 - (i) प्लॉट सं. "159 से 167 से 172" के स्थान पर प्लॉट सं. "159 से 167, 169 से 172" प्रतिस्थापित किया जाएगा।
7. द्वितीय चरण के लिए धारा 9(1) के अधीन अधिसूचित किये जाने वाले क्षेत्र के सीमा वर्णन में :-
 - (i) रेखा ज-झ के सीमा वर्णन में :- ग्राम चेपाकला के प्लॉट सं. "186" के स्थान पर प्लॉट सं. "286" प्रतिस्थापित किया जाएगा।
 - (ii) रेखा झ-ञ के सीमा वर्णन में :- "ग्राम चेपाकला" के स्थान पर "ग्राम चेपाकला" प्रतिस्थापित किया जाएगा।
 - (iii) रेखा ट-ठ के सीमा वर्णन में :- ग्राम जुगारा के प्लॉट सं. "568" के स्थान पर प्लॉट सं. "468" प्रतिस्थापित किया जाएगा।

- (v) क्षेत्र के सीमा वर्णन के क्रम सं. 26 में :- "रेखा य-क" के स्थान पर "रेखा य-क I" प्रतिस्थापित किया जाएगा।
- (vi) रेखा ग1-च1 के सीमा वर्णन में :- ग्राम केरी के दक्षिणी किनारे पर स्थित बिन्दु "ग" के स्थान पर "बिन्दु ग1" प्रतिस्थापित किया जाएगा।
- (vii) रेखा ड1-च1 के सीमा वर्णन में :- "ग्राम देवरियाखुर्द" के स्थान पर "ग्राम देवरियाखुर्द" प्रतिस्थापित किया जाएगा।

[सं. 43015/7/2005-पीआरआईडब्ल्यू- I (जिल्द- III)]

एम. शाहाबुद्दीन, अवर सचिव

CORRIGENDUM

New Delhi, the 13th February, 2009

S. O. 429.—In exercise of powers conferred by sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition & Development) Act, 1957 (20 of 1957), the Central Government hereby amends the notification dated 28th November, 2008 of the Government of India, Ministry of Coal vide number S.O. 3273 published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated December 13, 2008, namely :—

In the said Notification :—

1. In the list of plots in respect of village Jugra :

(i) Plot No. "455 to 464" shall be substituted by Plot No. "455 to 468".

2. In the Boundary description of Area in respect of

(vii) Line G-H :

(i) "village Chepablan" shall be substituted by "village Chepakalan".

[No. 43015/7/2005-PRJW-I (Vol-III)]

M. SHAHABUDEEN, Under Secy.

पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय

नई दिल्ली, 11 फरवरी, 2009

का.आ. 430.—तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा (3) की उप-धारा (3) के खण्ड (ग) द्वारा प्रदत्त की गई शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निम्नलिखित अधिकारियों को तेल उद्योग विकास बोर्ड के सदस्य के रूप में, उनके सामने दर्शायी गई अवधि के लिए, या अगला आदेश जारी होने तक, जो भी पहले हो, नियुक्त करती है:-

		से	तक
1.	श्री पी.के. सिन्हा, अपर सचिव एवं वित्तीय सलाहकार, पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय	04-11-2008	03-11-2010
2.	श्री वी. के. सिम्बल, महा निदेशक, हाइड्रोकार्बन महानिदेशालय	01-11-2008	31-10-2010

[सं. जी. 35012/2/91-वित्त-II]

एस. सी. दास, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 11th February, 2009

S.O. 430.—In exercise of the powers conferred by Clause (c) of Sub-section (3) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints the following officers as Members of the Oil Industry Development Board for the period shown against their names or until further orders, whichever is earlier:

		From	To
1.	Shri P. K. Sinha, AS&FA Ministry of Petroleum & Natural Gas	04-11-2008	3-11-2010
2.	Shri V. K. Sibal DG, DGH	01-11-2008	31-10-2010

[No. G. 35012/2/91-Fin.II]

S. C. DAS, Under Secy.

नई दिल्ली, 17 फरवरी, 2009

का. अ. 431.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसने इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. अ. 2659(अ) तारीख 14 नवंबर, 2008, जो भारत के राजपत्र तारीख 14 नवंबर, 2008, में प्रकाशित की गई थी, द्वारा उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में गुजरात राज्य में मुक्का से पंजाब राज्य में भठिण्डा तक प्रकृत ऑयल स्वाम्यभारण के लिए मुक्का-भठिण्डा पाइपलाइन के माध्यम से एचपीसीएल-मिस्तल पाइपलाइन्स लिमिटेड (गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड की समनुषंगी) द्वारा पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी ;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 13 दिसंबर, 2008, को उपलब्ध करा दी गई थी ;

और स्वाम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार का, उक्त रिपोर्ट पर विचार करने के पश्चात, यह समाधान हो जाने पर कि उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है, उसने उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के लिए उपयोग के अधिकार का अर्जन किया जाए ;

और केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाए, सभी वित्तीयों से मुक्त होकर एचपीसीएल-मिस्तल पाइपलाइन्स लिमिटेड (गुरु गोबिन्द सिंह रिफाइनरीज लिमिटेड की समनुषंगी) में निहित होगा।

पेट्रोलियम और खनिज पाइपलाइन अधिनियम, 1962 की धारा 10 के अध्याधीन किसी भी शक्तिपूर्ति के लिए एचपीसीएल-मिस्तल पाइपलाइन्स लिमिटेड पूर्णतया उत्तरदायी होगी और पाइपलाइन से सम्बन्धित किसी भी मामले पर केन्द्रीय सरकार के विरुद्ध कोई वाद, दावा या कानूनी कार्यवाही नहीं हो सकेगी।

अनुसूची

तालुका : मुन्दा		जिला: कच्छ	राज्य: गुजरात		
क्रम सं.	गाँव का नाम	सर्वे संख्या	क्षेत्रफल		
			हेक्टर	आर	वर्ग मीटर
1	2	3	4	5	6
1	धब	दरिया व सर्वे नंबर 169 के बीच की भूमी	02	17	29
		169	00	04	60
2	मुन्दा	158/2	00	10	56
3	बारोड़	244	00	48	82
		216	00	06	60
		207	00	98	14
		219	00	22	10
		218	00	58	98
		सर्वे नंबर 207 में मेटल्ड रास्ता	00	04	17
		165/1	00	04	72
		165/2	00	03	32
		163/1	00	13	04
		163/2	00	12	76
		161/1	00	09	07
		161/2	00	02	70
		161/4	00	00	28
		161/3	00	00	33
		161/5	00	07	02
		161/6	00	05	24
		161/7	00	00	33
		162	00	01	23
		सर्वे नंबर 161 व 170 के बीच में कार्ट ट्रक	00	15	77
		170	00	04	24
		171/4	00	01	83
		155/1	00	01	05
		221	00	08	31
		244/2	00	04	85
		सर्वे नंबर 221 व गाँव सीमा के बीच में राज्य मार्ग	00	03	71
		130/1	00	02	48
		131/1	00	02	15
		131/2	00	04	27
		131/3	00	03	37
		131/4	00	03	11
		131/5	00	02	43
		131/6	00	02	57
		138	00	05	23

तालिका 1 मुन्दा		जिला कच्छ	राज्य गुजरात		
क्रम सं.	गाँव का नाम	सर्वे संख्या	क्षेत्रफल		
1	2	3	हेक्टर	ज्वा	वर्ग मीटर
4	5	6	7	8	9
3	बारोइ (जारी)	139	00	03	92
		119	00	15	91
		138	00	00	46
		140/2	00	00	92
		142/1	00	01	83
4	गोवरसमा	गाँव सीमा व सर्वे नंबर 48/1 के बीच में राज्य मार्ग	00	01	30
		48/1	00	12	81
		48/2	00	11	39
		48/3	00	00	92
		11	00	10	62
		10	00	15	87
		52	00	01	83
		12/1	00	05	05
		12/2	00	04	53
		12/4	00	01	50
		12/5	00	03	85
		14/2	00	40	64
		16/1	00	04	01
5	शेखडीया	112	00	15	79
		110/2	00	04	25
		113	00	11	83
		114	00	09	63
		115/1	00	01	09
		116	00	05	73
		सर्वे नंबर 116 व 117/1 के बीच में कार्ट ट्रक	00	03	81
		117/1	00	05	66
		117/2	00	05	01
		118/1	00	03	100
		118/3	00	04	67
		सर्वे नंबर 118/3 व 2/2 के बीच में नाला	00	14	09
		2/2	00	06	88
		2/1	00	23	49
		3	00	08	64
		सर्वे नंबर 3 में छामर रास्ता	00	06	31
		सर्वे नंबर 3 व 4 के बीच में नाला	00	01	44
		4	00	10	13

तालुका : मुन्दा		जिला: कच्छ	राज्य: गुजरात		
क्रम सं.	गाँव का नाम	सर्वे संख्या	क्षेत्रफल		
1	2	3	हेक्टर	आर	वर्ग मीटर
1	2	3	4	5	6
5	शेखडीया (जारी)	12/1	00	01	36
		12/2	00	02	22
		सर्वे नंबर 12/2 व 15/1 के बीच में नाला	00	06	40
		15/1	00	02	15
		16/2	00	03	23
		16/1	00	03	14
		सर्वे नंबर 16/1 व 17/1 के बीच में ओढ़ा	00	01	44
		17/1	00	04	93
		17/2	00	02	14
6	सडाऊ	34	00	02	16
		37/1	00	02	95
		43	00	11	39
		44	00	15	79
		45	00	15	47
		46	00	21	47
		47/2	00	01	75
		48	00	01	86
7	गुन्डाला	327/1	00	02	49
		327/2	00	00	15
		326	00	04	60
		324	00	14	25
		325	00	05	48
		322	00	05	85
		331	00	00	94
		332	00	13	66
		333	00	06	64
		317	00	24	21
		311	00	06	72
		312/1	00	02	20
		310	00	17	88
		309	00	10	38
		585/1	00	59	95
		585/13	00	24	63
		369/1	00	10	06
		सर्वे नंबर 369/1 में नाला	00	04	62
		368/1	00	05	38
		370/1	00	24	68
		370/2	00	07	31

संख्या I ग्रन्था		जिला कुछ	राज्य मीरत		
क्रम सं	गोष्प का नाम	सर्वे संख्या	क्षेत्रफल		
			हेक्टर	आर	वर्ग मीटर
1	2	3	4	5	6
7	गुन्दावा (जारी)	371	00	11	11
	सर्वे नंबर 371 व 585/1 के बीच में नाला		00	02	57
	395/1		00	01	80
	393/2		00	11	61
	393/1		00	27	33
	सर्वे नंबर 585/1 में नाला		00	04	75
	376		00	24	57
	216		00	04	40
	215		00	30	59
	सर्वे नंबर 215 में छपर रास्ता		00	08	59
	214		00	16	92
	सर्वे नंबर 214 व 213 के बीच में कार्ट ट्रक		00	05	01
	213		00	23	49
	212		00	00	55
	सर्वे नंबर 213 व 210/1 के बीच में कार्ट ट्रक		00	06	55
	210/1		00	13	49
	सर्वे नंबर 210/1 में ओढा		00	03	52
	210/3		00	00	62
	सर्वे नंबर 585/1 में सुनी नदी		00	09	56
	सर्वे नंबर 585/1 में मेटल्ड रास्ता		00	05	68
	189		00	09	11
	160		00	15	02
	159		00	12	17
	सर्वे नंबर 159 में ओढा		00	03	36
	154/1		00	02	75
	155		00	11	62
8	राधा	14/1	00	05	23
	13		00	11	59
	12		00	11	67
	71		00	14	91
	सर्वे नंबर 71 में ओढा		00	01	36
	सर्वे नंबर 71 व 27 के बीच में ओढा		00	06	59
9	गोखा	212	00	05	73
	211		00	03	35
	213		00	16	21

तालिका 1 मुम्बई		जिला कच्छ	राज्य गुजरात		
क्र. सं.	गोब का नाम	सर्वे संख्या	क्षेत्रफल		
1	2	3	हेक्टर	आर	वर्ग मीटर
9	मोखा (जारी)	219	00	00	50
		218	00	08	12
		214	00	09	99
		सर्वे नंबर 214 व 177/2 के बीच में ओढा	00	03	48
		177/2	00	00	28
		177/3	00	09	03
		सर्वे नंबर 177/3 व 178/1 के बीच में कार्ट ट्रक	00	00	23
		178/1	00	09	13
		172	00	11	88
		सर्वे नंबर 172 व 169 के बीच में कार्ट ट्रक	00	02	84
		171	00	21	48
		170	00	01	70
		सर्वे नंबर 170 व 243/2 के बीच में कार्ट ट्रक	00	07	98
		181/2	00	02	75
		243/2	00	09	34
		244	00	34	45
		248	00	11	43
		सर्वे नंबर 248 व 157 के बीच में कार्ट ट्रक	00	13	20
		155	00	17	01
		154	00	17	18
		153/1	00	12	60
		153/2	00	00	45
		152	00	08	15
		150/2	00	04	05
		सर्वे नंबर 150/2 व 251 के बीच में राज्य मार्ग	00	12	70
		251	00	10	10.1667
		253/2	00	07	68
		253/1	00	10	25
		254/1	00	13	08
		254/2	00	12	41
		254/4	00	01	20
		259	00	08	08
		सर्वे नंबर 259 व गोब सीमा के बीच में मिठी नदी	00	15	23

समूह 3 मुक्त		निरास काल	समूह 4 मुक्त		
क्रम सं.	नौक का नाम	सर्वे संख्या	क्षेत्रफल		
1	2	3	कि.मी.	एकर	वर्ग कि.मी.
10	छसरा	325/2	00	10	07
		सर्वे नंबर 325/2 व 322/2 के बीच में नाला	00	17	27
		322/2	00	05	87
		323/1	00	19	84
		322/1	00	21	07
		320	00	16	41
		344	00	93	19
		271	00	09	72
		सर्वे नंबर 271 व 263/1 के बीच में कर्ट ट्रक	00	05	49
		263/1	00	08	09
		263/2	00	06	16
		सर्वे नंबर 263/2 व 131 के बीच में कर्ट ट्रक	00	04	24
		131	00	01	63
		133	00	17	68
		134	00	07	03
		136	00	02	04
		सर्वे नंबर 136 व 126 के बीच में कर्ट ट्रक	00	03	03
		126	00	02	75
		125/1	00	13	32
		सर्वे नंबर 125/1 व 121 के बीच में कनाल	00	08	88
		121	00	12	71
		122/1	00	05	19
		122/2	00	03	13
		119	00	31	17
		123	00	02	75
		106	00	55	02
		107	00	00	29
		सर्वे नंबर 344 व 104 के बीच में खमर रास्ता	00	07	99
		104	00	38	74
		103	00	00	23
		102	00	21	07
		101	00	05	22
		100	00	11	83
		सर्वे नंबर 100 व 95 के बीच में ओढ़ा	00	04	89
		95	00	00	89
		सर्वे नंबर 95 में नाला	00	01	71

तालुका : मुन्दा		जिला : कच्छ	राज्य : गुजरात		
क्रम सं.	गोंव का नाम	सर्वे संख्या	क्षेत्रफल		
			हेक्टर	आर	बर्ग मीटर
1	2	3	4	5	6
10	छसरा (जारी)	96	00	02	04
		93	00	02	75
		92	00	11	05
		सर्वे नंबर 344 में ओढ़ा	00	01	59

[फा. सं. आर-31015/29/2008-ओ.आर.-II]

ए. गोस्वामी, अवर सचिव

New Delhi, the 17th February, 2009

S. O. 431.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O.2659(E) dated the 14th November, 2008, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), published in the Gazette of India dated the 14th November, 2008, the Central Government declared its intention to acquire the right of user in the land specified in the Schedule appended to that notification for the purpose of laying pipeline for evacuation of Crude Oil from Mundra in the State of Gujarat to Bathinda in the State of Punjab through Mundra – Bathinda Pipeline by HPCL - Mittal Pipelines Limited, (a subsidiary of Guru Gobind Singh Refineries Limited);

And whereas copies of the said Gazette notification were made available to the public on the 13th December, 2008;

And whereas the Competent Authority has under sub-section (1) of section 6 of the said Act submitted his report to the Central Government;

And whereas the Central Government, after considering the said report and on being satisfied that the said land is required for laying this pipeline, has decided to acquire right of user therein;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification is hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land for laying the pipeline shall, instead of vesting in the Central Government, vest on the date of publication of this declaration, in HPCL - Mittal Pipelines Limited, (a subsidiary of Guru Gobind Singh Refineries Limited) free from all encumbrances.

HPCL - Mittal Pipelines Limited shall be exclusively liable for any compensation in terms of Section 10 of the P&MP Act, 1962 and no suit, claim or legal proceeding would lie against the Central Government on any matter relating to the pipeline.

SCHEDULE

Taluka : MUNDRA		District : KUTCH		State : GUJARAT	
Sl. No.	Name of the Village	Survey No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
1	DHRAB	Area in between Sea and Survey number 169	02	17	29
		169	00	04	60
2	MUNDRA	156/2	00	10	56
3	BAROI	244	00	48	82
		216	00	06	60
		207	00	98	14
		219	00	22	10
		218	00	58	98
		Metalled Road in Survey Number 207	00	04	17
		165/1	00	04	72
		165/2	00	03	32
		163/1	00	13	04
		163/2	00	12	76
		161/1	00	09	07
		161/2	00	02	70
		161/4	00	00	28
		161/3	00	00	33
		161/5	00	07	02
		161/6	00	05	24
		161/7	00	00	33
		162	00	01	23
		Cart Track in between Survey Number 161 and 170	00	15	77
		170	00	04	24
		171/4	00	01	83
		155/1	00	01	05
		221	00	08	31
		244/2	00	04	85
		State Highway in between Survey Number 221 and Village Boundary	00	03	71
		130/1	00	02	48
		131/1	00	02	15
		131/2	00	04	27
		131/3	00	03	37
		131/4	00	03	11
		131/5	00	02	43
		131/6	00	02	57
		138	00	05	23

Taluka : MUNDRA		District : KUTCH		State : GUJARAT	
Sl. No.	Name of the Village	Survey No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
3	BAROI (Contd.)	139	00	03	92
		119	00	15	91
		136	00	00	46
		140/2	00	00	92
		142/1	00	01	83
4	GOVARSAMA	State Highway in between Village Boundary and Survey number 48/1	00	01	30
		48/1	00	12	81
		48/2	00	11	39
		48/3	00	00	92
		11	00	10	62
		10	00	15	87
		52	00	01	83
		12/1	00	05	05
		12/2	00	04	53
		12/4	00	01	50
		12/5	00	03	85
		14/2	00	40	64
		16/1	00	04	01
5	SHEKHADIA	112	00	15	79
		110/2	00	04	25
		113	00	11	83
		114	00	09	63
		115/1	00	01	09
		116	00	05	73
		Cart track in between Survey number 116 and 117/1	00	03	81
		117/1	00	05	66
		117/2	00	05	01
		118/1	00	03	100
		118/3	00	04	67
		Nala in between Survey number 118/3 and 2/2	00	14	09
		2/2	00	06	88
		2/1	00	23	49
		3	00	08	64
		Asphalted Road in Survey number 3	00	06	31
		Nala in between Survey number 3 and 4	00	01	44
		4	00	10	13

Taluka : MUNDRA		District : KUTCH		State : GUJARAT	
Sl. No.	Name of the Village	Survey No.	Area		
			Hectare	Are	Sq.mtr.
1	2	3	4	5	6
5	SHEKHADIA (Contd.)	12/1	00	01	36
		12/2	00	02	22
		Stream in between Survey number 12/2 and 15/1	00	06	40
		15/1	00	02	15
		16/2	00	03	23
		16/1	00	03	14
		Stream in between Survey number 16/1 and 17/1	00	01	44
		17/1	00	04	93
		17/2	00	02	14
		6	SADAU	34	00
37/1	00			02	95
43	00			11	39
44	00			15	79
45	00			15	47
46	00			21	47
47/2	00			01	75
48	00			01	86
7	GUNDALA			327/1	00
		327/2	00	09	15
		326	00	04	60
		324	00	14	25
		325	00	05	48
		322	00	05	85
		331	00	00	94
		332	00	13	66
		333	00	06	64
		317	00	24	21
		311	00	06	72
		312/1	00	02	20
		310	00	17	88
		309	00	10	38
		585/1	00	59	95
		585/13	00	24	63
		369/1	00	10	06
		Nala in Survey number 369/1	00	04	62
		368/1	00	05	38
		370/1	00	24	68
		370/2	00	07	31

Taluka : MUNDRA		District : KUTCH		State : GUJARAT			
Sl. No.	Name of the Village	Survey No.	Area				
			Hectare	Are	Sq.mtr.		
1	2	3	4	5	6		
7	GUNDALA (Contd.)	371	00	11	11		
		Nala in between Survey number 371 and 585/1	00	02	57		
		395/1	00	01	80		
		393/2	00	11	61		
		393/1	00	27	33		
		Nala in Survey number 585/1	00	04	75		
		376	00	24	57		
		216	00	04	40		
		215	00	30	59		
		Asphalted Road in Survey number 215	00	08	59		
		214	00	16	92		
		Cart Track in between Survey number 214 and 213	00	05	01		
		213	00	23	49		
		212	00	00	55		
		Cart Track in between Survey number 213 and 210/1	00	06	55		
		210/1	00	13	49		
		Stream in Survey number 210/1	00	03	52		
		210/3	00	00	62		
		Luni River in Survey number 585/1	00	09	56		
		Metalled Road in Survey number 585/1	00	05	68		
		189	00	09	11		
		160	00	15	02		
		159	00	12	17		
		Stream in Survey number 159	00	03	36		
		154/1	00	02	75		
		155	00	11	62		
		8	RAGHA	14/1	00	05	23
				13	00	11	59
				12	00	11	67
				71	00	14	91
				Stream in Survey number 71	00	01	36
				Stream in between Survey number 71 and 27	00	06	59
9	MOKHA	212	00	05	73		
		211	00	03	35		
		213	00	16	21		

Taluka : MUNDRA		District : KUTCH		State : GUJARAT	
Sl. No.	Name of the Village	Survey No.	Area		
			Hectare	Acre	Sq.mtr.
1	2	3	4	5	6
9	MOKHA (Contd.)	219	00	00	50
		218	00	06	12
		214	00	09	99
		Stream in between Survey number 214 and 177/2	00	03	46
		177/2	00	00	28
		177/3	00	09	03
		Cart track in between Survey number 177/3 and 176/1	00	00	23
		176/1	00	09	13
		172	00	11	86
		Cart track in between Survey number 172 and 169	00	02	84
		171	00	21	46
		170	00	01	70
		Cart track in between Survey number 170 and 243/2	00	07	98
		161/2	00	02	75
		243/2	00	09	34
		244	00	34	45
		246	00	11	43
		Cart track in between Survey number 246 and 157	00	13	20
		155	00	17	01
		154	00	17	18
		153/1	00	12	60
		153/2	00	00	45
		152	00	08	15
		150/2	00	04	05
		State Highway in between Survey number 150/2 and 251	00	12	70
		251	00	10	10.1667
		253/2	00	07	68
		253/1	00	10	25
		254/1	00	13	08
		254/2	00	12	41
		254/4	00	01	20
		259	00	08	08
		Mitti River in between Survey number 259 and Village Boundary	00	15	23
		10	CHHASRA	325/2	00
Nala in between Survey number 325/2 and 322/2	00			17	27
322/2	00			05	67
323/1	00			19	64

Taluka : MUNDRA		District : KUTCH		State : GUJARAT		
Sl. No.	Name of the Village	Survey No.	Area			
			Hectare	Are	Sq.mtr.	
1	2	3	4	5	6	
10	CHHASRA (Contd.)	322/1	00	21	07	
		320	00	16	41	
		344	00	93	19	
		271	00	09	72	
		Cart track in between Survey number 271 and 263/1	00	05	49	
		263/1	00	08	09	
		263/2	00	08	18	
		Cart track in between Survey number 263/2 and 131	00	04	24	
		131	00	01	63	
		133	00	17	55	
		134	00	07	03	
		136	00	02	04	
		Cart track in between Survey number 136 and 126	00	03	03	
		126	00	02	75	
		125/1	00	13	32	
		Canal in between Survey number 125/1 and 121	00	08	68	
		121	00	12	71	
		122/1	00	05	19	
		122/2	00	03	13	
		119	00	31	17	
		123	00	02	75	
		106	00	55	02	
		107	00	00	29	
		Asphalted Road in between Survey number 344 and 104	00	07	99	
		104	00	38	74	
		103	00	00	23	
		102	00	21	07	
		101	00	05	22	
		100	00	11	83	
		Stream in between Survey number 100 and 95	00	04	89	
		95	00	00	66	
		Nala in Survey number 95	00	01	71	
		96	00	02	04	
		93	00	02	75	
		92	00	11	05	
		Stream in Survey number 344	00	01	59	

[F. No. R-31015/29/2008-O.R.-II]

A. GOSWAMI, Under Secy.

अजय एवं रोजगार मंत्रालय

नई दिल्ली, 23 जनवरी, 2009

का.आ. 432.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इक्विन ब्रीडिंग स्टड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1358/2K8) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-1-2009 को प्राप्त हुआ था।

[सं. एल-14012/83/2001-आई.आर.(डी.यू.)]

अजय कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 23rd January, 2009

S.O. 432.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1358/2K8) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in Industrial Dispute between the employers in relation to the management of Equine Breeding Stud and their workman, which was received by the Central Government on 23-1-2009.

[No. L-14012/83/2001-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case I.D. No. : 1358/2K8

Registered on : 3-3-2008

Date of Decision : 2-1-2008

Sh. Seo Chand C/o the President, Distt. Agriculture Workers Union, 371/9, Jawahar Nagar, Hissar.

.....Petitioner

Versus

The Commandant, Equine Breeding Stud, Hissar-125001

.....Respondent

For the Workman : Sh. N.S. Chaudhary, Advocate

For the Management : Sh. K.K. Thakur, Advocate

AWARD

The case has been summoned from the record at the joint request of the counsel for the parties who are present.

As a result of persuasion in the cases similar to the present one, the parties agreed to settle the matter amicably and on 14-11-2008, five of the similar cases pending against the present Management were settled amicably. Today the

counsel for the parties, in the presence of the workmen, who were present in the cases pending before this Tribunal stated that the workman is ready to withdraw the reference provided the Management assures that the workman will be provided with the work in terms of the settlement between similarly placed workman held on 14-11-2008. The counsel for the parties and the workman made a joint statement by which the Management agreed that the workman will be provided with the job as and when required basis. They further agreed that in case the workman is covered by the scheme of regularization, temporary status he will be provided with that benefit under rules. It was also agreed by the Management that the workman shall be given the job keeping in view his past experience and he will be paid the wages on the D.C. rates after the same are approved by the competent authority for District Hissar. After the statement of the counsel for the Management, the workman has requested for withdrawal of reference.

The Ministry of Labour, Government of India vide their No. L-14012/83/2001-IR (DU) dated 20-02-2008 desired of this tribunal to adjudicate upon whether the action of the management of Equine Breeding Stud in terminating the services of Shri Seo Chand w.e.f. 11-09-1999 is legal and justified? If not, what relief the workman is entitled to? On record there has come the joint statement of the parties by which they have settled the matter amicably and the Management has agreed to provide work to the workman. In view of that the workman has withdrawn from the reference. There is no evidence produced by the parties in support of their respective claims except the joint statement. In the circumstances there is nothing to support the claim of the workman that the termination of the services of Rajesh Kumar son of Sh. Parsada is not just and legal. He is, therefore, not entitled to the relief claimed by him. However, he is entitled to the relief which the parties have agreed to by their statement which is made the part of this award, being binding on them in terms of Section 18 of the Industrial Disputes Act 1947. In the light of what is stated earlier the reference is answered and the award is passed. Let a copy of this award be sent to the appropriate Government of necessary action and the file be consigned to record after due compilation.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 23 जनवरी, 2009

का.आ. 433.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इक्विन ब्रीडिंग स्टड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1361/2K8) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-1-2009 को प्राप्त हुआ था।

[सं. एल-14012/83/2001-आई.आर.(डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd January, 2009

S.O. 433.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1361/2K8) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Equine Breeding Stud and their workman, which was received by the Central Government on 23-1-2009.

[No. L-14012/82/2001-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case I.D. No. : 1361/2K8

Registered on : 3-3-2008

Date of Decision : 2-1-2008

Satbir C/o the President, Distt. Agriculture Workers Union, 371/9, Jawahar Nagar, Hissar.

.....Petitioner

Versus

The Commandant, Equine Breeding Stud, Hissar-125001.

.....Respondent

For the Workman : Sh. N.S. Chaudhary, Advocate

For the Management : Sh. K.K. Thakur, Advocate.

AWARD

The case has been summoned from the record at the joint request of the counsel for the parties who are present.

As a result of persuasion in the cases similar to the present one, the parties agreed to settle the matter amicably and on 14-11-2008, five of the similar cases pending against the present Management were settled amicably. Today the counsel for the parties, in the presence of the workmen, who were present in the cases pending before this Tribunal stated that the workman is ready to withdraw the reference provided the Management assures that the workman will be provided with the work in terms of the settlement between similarly placed workman held on 14-11-2008. The counsel for the parties and the workman made a joint statement by which the Management agreed that the workman will be provided with the job as and when required basis. They further agreed that in case the workman is covered by the scheme of regularization, temporary status he will be provided with that benefit under rules. It was also agreed by the Management that the workman shall be given the job keeping in view his past experience and he will be paid the wages on the D.C. rates after the same are approved by the competent authority for District Hissar. After the statement of the counsel for the Management, the workman has requested for withdrawal of reference.

The Ministry of Labour, Government of India vide their No. L-14012/82/2001-IR (DU) dated 20-02-2008 desired of this tribunal to adjudicate upon whether the action of

the management of Equine Breeding Stud in terminating the services of Shri Satbir w.e.f. 11-09-1999 is legal and justified? If not, what relief the workman is entitled to? On record there has come the joint statement of the parties by which they have settled the matter amicably and the Management has agreed to provide work to the workman. In view of that the workman has withdrawn from the reference. There is no evidence produced by the parties in support of their respective claims except the joint statement. In the circumstances there is nothing to support the claim of the workman that the termination of the services of Rajesh Kumar son of Sh. Parsada is not just and legal. He is, therefore, not entitled to the relief claimed by him. However, he is entitled to the relief which the parties have agreed to by their statement which is made the part of this award, being binding on them in terms of Section 18 of the Industrial Disputes Act 1947. In the light of what is stated earlier the reference is answered and the award is passed. Let a copy of this award be sent to the appropriate Government of necessary action and the file be consigned to record after due compilation.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 23 जनवरी, 2009

का.आ. 434.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इक्विन ब्रीडिंग स्टड के प्रबंधन के संबंध में निर्योक्तों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1360/2K8) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-1-2009 को प्राप्त हुआ था।

[सं. एल-14012/269/2001-आई.आर. (डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd January, 2009

S.O. 434.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1360/2K8) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in Industrial Dispute between the employers in relation to the management of Equine Breeding Stud and their workman, which was received by the Central Government on 23-1-2009.

[No. L-14012/269/2001-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case I.D. No. : 1360/2K8

Registered on : 3-3-2008

Date of Decision : 2-1-2008

Sh. Ashok C/o the President, Distt. Agriculture Workers Union, 371/9, Jawahar Nagar, Hissar.

.....Petitioner

Versus

The Commandant, Equine Breeding Stud, Hissar-125001.

.....Respondent

For the Workman : Sh. N. S. Chaudhary, Advocate

For the Management : Sh. K. K. Thakur, Advocate.

AWARD

The case has been summoned from the record at the joint request of the counsel for the parties who are present.

As a result of persuasion in the cases similar to the present one, the parties agreed to settle the matter amicably and on 14-11-2008, five of the similar cases pending against the present Management were settled amicably. Today the counsel for the parties, in the presence of the workmen, who were present in the cases pending before this Tribunal stated that the workman is ready to withdraw the reference provided the Management assures that the workman will be provided with the work in terms of the settlement between similarly placed workman held on 14-11-2008. The counsel for the parties and the workman made a joint statement by which the Management agreed that the workman will be provided with the job as and when required basis. They further agreed that in case the workman is covered by the scheme of regularization, temporary status he will be provided with that benefit under rules. It was also agreed by the Management that the workman shall be given the job keeping in view his past experience and he will be paid the wages on the D.C. rates after the same are approved by the competent authority for District Hissar. After the statement of the counsel for the Management, the workman has requested for withdrawal of reference.

The Ministry of Labour, Government of India vide their No. L-14012/269/2001-IR (DU) dated 20-02-2008 desired of this tribunal to adjudicate upon whether the action of the management of Equine Breeding Stud in terminating the services of Shri Ashok w.e.f. 11-09-1999 is legal and justified? If not, what relief the workman is entitled to? On record there has come the joint statement of the parties by which they have settled the matter amicably and the Management has agreed to provide work to the workman. In view of that the workman has withdrawn from the reference. There is no evidence produced by the parties in support of their respective claims except the joint statement. In the circumstances there is nothing to support the claim of the workman that the termination of the services of Rajesh Kumar son of Sh. Parsada is not just and legal. He is, therefore, not entitled to the relief claimed by him. However, he is entitled to the relief which the parties have agreed to by their statement which is made the part of this award, being binding on them in terms of Section 18 of the Industrial Disputes Act, 1947. In the light of what is stated earlier the reference is answered and the award is passed. Let a copy of this award be sent to the appropriate Government of necessary action and the file be consigned to record after due compilation.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 23 जनवरी, 2009

का.आ. 435.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इक्विन ब्रीडिंग स्टुड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 35/2K4) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-1-2009 को प्राप्त हुआ था।

[सं. एल-42012/270/2001-आईआर(डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd January, 2009

S.O. 435.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/2K4) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Chandigarh as shown in the Annexure in Industrial Dispute between the employers in relation to the management of Equine Breeding Stud and their workman, which was received by the Central Government on 23-1-2009.

[No. L-42012/270/2001-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH**

Presiding Officer : Shri Kuldip Singh

Case I.D. No. : 35/2K4

Registered on : 30-10-2004

Date of Decision : 2-1-2009

Sh. Rajesh Kumar son of Sh. Parsada, Resident of 7/19,
Kalu Ram Ki Building, Thandi Sarak, Hissar.

Petitioner

Versus

The Commandant, Equine Breeding Stud, Hissar-125001.

Respondent

For the Workman : Sh. N.S. Chaudhary, Advocate

For the Management : Sh. K.K. Thakur, Advocate.

AWARD

The case has been summoned from the record at the joint request of the counsel for the parties who are present.

As a result of persuasion in the cases similar to the present one, the parties agreed to settle the matter amicably and on 14-11-2008, five of the similar cases pending against the present Management were settled amicably. Today the counsel for the parties, in the presence of the workmen, who were present in the cases pending before this Tribunal stated that the workman is ready to withdraw the reference provided the Management assures that the workman will be provided with the work in terms of the settlement between

similarly placed workman held on 14-11-2008. The counsel for the parties and the workman made a joint statement by which the Management agreed that the workman will be provided with the job as and when required basis. They further agreed that in case the workman is covered by the scheme of regularization, temporary status he will be provided with that benefit under rules. It was also agreed by the Management that the workman shall be given the job keeping in view his past experience and he will be paid the wages on the D.C. rates after the same are approved by the competent authority for District Hissar. After the statement of the counsel for the Management, the workman has requested for withdrawal of reference.

The Ministry of Labour, Government of India vide their No. L-42012/270/2001-IR (DU) dated 23-8-2004 desired of this tribunal to adjudicate upon whether the action of the management of Equine Breeding Stud in terminating the services of Shri Rajesh Kumar S/o Sh. Parsada w.e.f. 1-08-1999 is just and legal? If not, what relief the concerned workman is entitled to? On record there has come the joint statement of the parties by which they have settled the matter amicably and the Management has agreed to provide work to the workman. In view of that the workman has withdrawn from the reference. There is no evidence produced by the parties in support of their respective claims except the joint statement. In the circumstances there is nothing to support the claim of the workman that the termination of the services of Rajesh Kumar son of Sh. Parsada is not just and legal. He is, therefore, not entitled to the relief claimed by him. However, he is entitled to the relief which the parties have agreed to by their statement which is made the part of this award, being binding on them in terms of Section 18 of the Industrial Disputes Act 1947. In the light of what is stated earlier the reference is answered and the award is passed. Let a copy of this award be sent to the appropriate Government of necessary action and the file be consigned to record after due compilation.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 23 जनवरी, 2009

का.आ. 436.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इक्विन ब्रीडिंग स्टड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1362/2K8) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-1-2009 को प्राप्त हुआ था।

[सं. एल-14012/268/2001-आई.आर.(डी.यू.)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd January, 2009

S.O. 436.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1362/

2K8) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in Industrial Dispute between the employers in relation to the management of Equine Breeding Stud and their workman, which was received by the Central Government on 23-1-2009.

[No. L-14012/268/2001-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case I.D. No. : 1362/2K8

Registered on : 3-3-2008

Date of Decision : 2-1-2008

Sh. Parmod C/o the President, Distt. Agriculture
Workers Union, 371/9, Jawahar Nagar, Hissar.

Petitioner

Versus

The Commandant, Equine Breeding Stud, Hissar-125001.

Respondent

For the Workman Sh. N.S. Chaudhary, Advocate

For the Management Sh. K.K. Thakur, Advocate.

AWARD

The case has been summoned from the record at the joint request of the counsel for the parties who are present.

As a result of persuasion in the cases similar to the present one, the parties agreed to settle the matter amicably and on 14-11-2008, five of the similar cases pending against the present Management were settled amicably. Today the counsel for the parties, in the presence of the workmen, who were present in the cases pending before this Tribunal stated that the workman is ready to withdraw the reference provided the Management assures that the workman will be provide with the work in terms of the settlement between similarly placed workman held on 14-11-2008. The counsel for the parties and the workman made a joint statement by which the Management agreed that the workman will be provided with the job as and when required basis. They further agreed that in case the workman is covered by the scheme of regularization, temporary status he will be provided with that benefit under rules. It was also agreed by the Management that the workman shall be given the job keeping in view his past experience and he will be paid the wages on the D.C. rates after the same are approved by the competent authority for District Hissar. After the statement of the counsel for the Management, the workman has requested for withdrawal of reference.

The Ministry of Labour, Government of India vide their No. L-14012/268/2001-IR (DU) dated 20-02-2008 desired of this tribunal to adjudicate upon whether the action of the management of Equine Breeding Stud in terminating the services of Shri Parmod w.e.f. 11-09-1999

is legal and justified? If not, what relief the workman is entitled to? On record there has come the joint statement of the parties by which they have settled the matter amicably and the Management has agreed to provide work to the workman. In view of that the workman has withdrawn from the reference. There is no evidence produced by the parties in support of their respective claims except the joint statement. In the circumstances there is nothing to support the claim of the workman that the termination of the services of Rajesh Kumar son of Sh. Parsada is not just and legal. He is, therefore, not entitled to the relief claimed by him. However, he is entitled to the relief which the parties have agreed to by their statement which is made the part of this award, being binding on them in terms of Section 18 of the Industrial Disputes Act 1947. In the light of what is stated earlier the reference is answered and the award is passed. Let a copy of this award be sent to the appropriate Government of necessary action and the file be consigned to record after due compilation.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 23 जनवरी, 2009

क्र.आ. 437.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार एवं बी.बी.एम. बी. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, चण्डीगढ़ के पंचाट (संदर्भ संख्या 766/2K5) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-1-2009 को प्राप्त हुआ था।

[सं. एल-42012/86/1991-डी-2 (बी)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 23rd January, 2009

S.O. 437.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 766/2K5) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BBMB and their workman, which was received by the Central Government on 23-1-2009.

[No. L-42012/86/1991-D-2(B)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer: Shri Kuldip Singh

Case I.D. No. : 766/2K5

Registered on : 5-9-2005

Date of Decision : 16-12-2008

Sh. Hira Lal S/o Sh. Gopal Dass C/o The General Secretary Nangal Bhakra Mazdoor Sangh, Q.No. 35-G, Nangal Township, Distt. Ropar-140124.

Petitioner

Versus

The Chief Engineer (Train) Bhakra Beas Management Board, Sector 22-C, C, Chandigarh.

Respondent

For the Workman General Secretary, Nangal Bhakra Mazdoor Sangh

For the Management Sh. N. D. Kalra, Advocate.

AWARD

The Government of India, Ministry of Labour referred the following dispute for the adjudication of this Tribunal vide their No. L-42012/86/91-D-2 (B) dated 28-2/4-3-1992.

"Whether the action of the management of BBMB (Power Wing) in treating Mr. Hira Lal, S/o Shri Gopal Das as Mali from the date of his appointment and not as T/Mate is justified? If not, what relief he is entitled to?"

The notice of the reference was given to the parties who appeared through representatives and filed their respective claims. The workman filed statement of claim to which the Management replied by the written statement. The workman filed the rejoinder and also supported his claim with his affidavit besides placed on record the photocopies of documents such as seniority list, offer of appointment etc. The Management filed the affidavit of Sh. S. C. Mangal, Senior Executive Engineer to support their pleadings. They also placed on record photocopies of some documents. The workman also tendered the affidavit of Sh. Hirday Ram, in support of his claim, whereas the Management filed the affidavit of Sh. P. P. Wahi, Executive Engineer. During the course of proceedings the parties filed a number of documents and also examined witnesses. The workman appeared as a witness whereas the Management examined S/Sh. S.C. Managal and Navneet Singh, as their witnesses.

The claim of the workman is that he was employed as Mali against the post of T-Mate vide order of Executive Engineer (O & M) Division, No. 4664-65 on 15-11-1981 and was entrusted with the job of Mali. That as per the statements of crew members he was working as T-Mate and was also issued an Identity Card with that status. The post of T-Mate was lying vacant but he was not given the designation of T-Mate whereas a co-worker Sh. Des Raj, was given the status of T-Mate vide order No. 254 dated 16-8-1989. Even otherwise, as per the seniority list issued by the Chief Engineer (Transmission) vide No. 5853-59 dated 13-6-1990 he was placed at serial No. 132 and was shown as T-Mate right from the date of his initial engagement i.e. 15-11-1981.

The Management has opposed the claim of the workman by raising the preliminary objection that since there was existing no dispute between the parties or the same was not apprehended, therefore, the reference is misplaced and not maintainable. On merits their claim is that the workman was engaged as work-charge Mali against

the post of T-Mate work-charge. Claiming that designation of the workman was shown as T-Mate by oversight in the Identity Card, but he was correctly shown as Mali in the Register. Admitting that the Cadre of Shri Des Raj was changed from Mali to T-Mate as he was found fit for the post. The workman was, however, informed vide No. 5853/PF dated 18-6-1990 that his prayer for change of Cadre from Mali to T-Mate will be considered as and when the post is available. That the workman was shown at serial No. 28 in the seniority list of Mali circulated by the Chief Engineer (Transmission), Chandigarh vide No. 594247 dated 13-6-1990. In the rejoinder the workman submitted that the post of T-Mate was lying vacant as he was appointed against the said post. He rebutted the claim of the Management as made out in para 2, 4 and 5 and reiterated the claim made by him in the claim petition. He prayed that his claim be decided with heavy costs on the Management.

The workman vide his statement dated 9-12-1994 proved his affidavit exhibit W-1. He admitted the contents of his application exhibit W-2 and seniority list W-3 as correct and stated that exhibit M-1 is the offer of appointment. Sh. S.C. Mangal, who appeared as a witness for the Management also proved his affidavit M-2 and the documents M-3 to M-11. In the cross-examination he stated that the workman was appointed as Mali against the post of work-charge T-Mate and was regularized as Mali in the year 1984. He could not say whether the post of Mali was available before the year 1984. He admitted that no notice was given to the workman before his Cadre was converted from Mali to T-Mate. Sh. Navneet Singh, who appeared as a witness for the Management, admitted the contents of letter dated 28-7-1989 which was marked as A-1.

I have gone through the file and have also considered the submissions made by the parties, oral as well as in writing. The facts that the workman was engaged as Mali against the post of Trades-man Mate, and that the Cadre of one Sh. Des Raj, who was also working as Mali, was changed to that of T-Mate are admitted by the parties. The Management has also admitted that the Cadre of the workman was changed from Mali to T-Mate without giving him any notice in the year 1992. There is also no basis to claim that the post of T-Mate was not available with the Management as the workman was working against that post. Thus, the postponement of consideration of the application of the workman for converting his Cadre from Mali to T-Mate, till the post of T-Mate was available was without any justification. The claim of the Management that the Cadre of Sh. Des Raj was converted from Mali to T-Mate as he was found fit for the post also does not get support from the record. The Management has not placed on record any evidence to show as to why the claim of the workman was not considered for the conversion of his Cadre from Mali to T-Mate although impliedly they have admitted that the post of T-Mate was available and the workman was working against that post. Moreover, they

have also not shown as to whether the workman was also considered for the post of T-Mate along with Sh. Des Raj and as to how Sh. Des Raj was found fit for the post, and what consideration the workman was lacking for converting his Cadre from Mali to T-Mate.

It is clear from the facts brought on record that the Management adopted double standard while dealing with similarly placed workman in their establishment. On the one hand they accepted the claim of Sh. Des Raj, who was also working as a Mali for converting his cadre to that of T-Mate, but postponed the consideration of prayer of the workman for converting his cadre from Mali to T-Mate the post against which he was working right from the day he was taken in the employment of the Management. As stated earlier apparently there was no basis for the Management to postpone the consideration of the case of the workman for the conversions of his cadre from Mali to T-Mate as he had already occupied the post of T-Mate from the date he was appointed by the Management. The non-conversion of his cadre from Mali to T-Mate, if not earlier, from the date the same benefit was given to Sh. Des Raj by the Management was unfair labour practice adopted by the Management. I do not find any weight in the claim of the Management that the workman had accepted the appointment as Mali against the post of T-Mate and also accepted his confirmation in the cadre in the year 1994. In other communications and by his acknowledgement, the workman accepted as status of Mali although he was working against the post of T-Mate. A labourer may be unskilled or semi-skilled can hardly understand as to what shall be the implications of his acknowledgement qua his status in service. There are a number of documents on record which show the workman had all along been advocating his claim for conversion of cadre from Mali to T-Mate and for that the competent authority had even called his explanation for having made the representation to higher authorities by over-reaching. That shows that the workman was not satisfied with the cadre he was given and was actively claiming the conversion of his cadre. It must have given him heart-burning when his colleague Sh. Des Raj was allowed the conversion of his cadre from Mali to T-Mate whereas he was not given that cadre at that time. The grant of conversion of cadre from Mali to T-Mate in favour of workman further shows that there was no reason for the Management to deny the conversion of cadre of the workman from Mali to T-Mate as otherwise the same would not have been given to him in the year 1992, by the Management. There is no merit in the claim of the Management that the reference is bad as it is not espoused by the Majority Union for the reason that the workman himself has followed his case and has admitted all the pleadings filed by him through the representative. The reference is, therefore, maintainable.

After going through all the record of this case, I am satisfied that the action of the management to deny the

treating of the workman as T-Mate, if not earlier from the date the same benefit was given to Sh. Des Raj was unjustified. The workman is entitled to be treated as T-Mate if not earlier from the date that benefit was given to Sh. Des Raj i.e. from 16-8-1989. He will also be entitled to all the benefits that may arise by treating him as T-Mate from the date Sh. Des Raj was given the cadre of T-Mate. The reference is answered in these terms and the award is passed. Let a copy of this award be sent to the appropriate Government for necessary action and the file be consigned to the record after compilation.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 23 जनवरी, 2009

का.आ. 438.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इक्विन ब्रीडिंग स्टड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. II, चण्डीगढ़ के पंचाट (संदर्भ संख्या 1359/2K8) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-1-2009 को प्राप्त हुआ था।

[सं. एल-14012/81/2001-आईआर(डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 23rd January, 2009

S.O. 438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1359/2K8) of the Central Government Industrial Tribunal-cum-Labour Court, No. II, Chandigarh as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Equine Breeding Stud and their workman, which was received by the Central Government on 23-1-2009.

[No. L-14012/81/2001-IR(DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldip Singh

Case I.D. No. : 1359/2K8

Registered on : 3-3-2008

Date of Decision : 2-1-2008

Sh. Satish C/o the President, Distt. Agriculture Workers Union, 371/9, Jawahar Nagar, Hissar.

Petitioner

Versus

The Commandant, Equine Breeding Stud, Hissar-125001.

Respondent

For the Workman Sh. N.S. Chaudhary, Advocate

For the Management Sh. K.K. Thakur, Advocate.

AWARD

The case has been summoned from the record at the joint request of the counsel for the parties who are present.

As a result of persuasion in the cases similar to the present one, the parties agreed to settle the matter amicably and on 14-11-2008, five of the similar cases pending against the present Management were settled amicably. Today the counsel for the parties, in the presence of the workmen, who were present in the cases pending before this Tribunal stated that the workman is ready to withdraw the reference provided the Management assures that the workman will be provided with the work in terms of the settlement between similarly placed workman held on 14-11-2008. The counsel for the parties and the workman made a joint statement by which the Management agreed that the workman will be provided with the job as and when required basis. They further agreed that in case the workman is covered by the scheme of regularization, temporary status he will be provided with that benefit under rules. It was also agreed by the Management that the workman shall be given the job keeping in view his past experience and he will be paid the wages on the D.C. rates after the same are approved by the competent authority for District Hissar. After the statement of the counsel for the Management, the workman has requested for withdrawal of reference.

The Ministry of Labour, Government of India vide their No. L-14012/81/2001-IR (DU) dated 20-02-2008 desired of this tribunal to adjudicate upon whether the action of the management of Equine Breeding Stud in terminating the services of Shri Satish w.e.f. 11-09-1999 is just and legal? If not, what relief the concerned workman is entitled to? On record there has come the joint statement of the parties by which they have settled the matter amicably and the Management has agreed to provide work to the workman. In view of that the workman has withdrawn from the reference. There is no evidence produced by the parties in support of their respective claims except the joint statement. In the circumstances there is nothing to support the claim of the workman that the termination of the services of Rajesh Kumar son of Sh. Parsada is not just and legal. He is, therefore, not entitled to the relief claimed by him. However, he is entitled to the relief which the parties have agreed to by their statement which is made the part of this award, being binding on them in terms of Section 18 of the Industrial Disputes Act, 1947. In the light of what is stated earlier the reference is answered and the award is passed. Let a copy of this award be sent to the appropriate Government of necessary action and the file be consigned to record after due compilation.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 28 जनवरी, 2009

का.आ. 439.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ़ रावनकोर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के

बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, इरनाकुलम के पंचाट (संदर्भ संख्या 124/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-1-2009 को प्राप्त हुआ था।

[सं. एल-12011/03/2004-आईआर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th January, 2009

S.O. 439.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 124/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam, as shown in the Annexure in Industrial Dispute between the management of State Bank of Travancore, and their workmen, received by the Central Government on 28-1-2009.

[No. L-12011/03/2004-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM
Present : Shri P.L. Norbert, B.A., LL.B., Presiding Officer
(Monday the 12th day of January, 2009/28th Pausa 1930)
I.D. No. 124/2006

(I. D. No. 49/2004 of Industrial Tribunal, Kollam)

Union : The General Secretary,
State Bank of Travancore Employees' Union,
Head Office, P.B.No. 157, Trivandrum.
By Adv. Lakshmana Iyer.

Management : The Managing Director,
State Bank of Travancore,
Poojapura, Trivandrum—695012.
By Adv. P. Ramakrishnan.

This case coming up for hearing on 05-01-2009, this Tribunal-cum-Labour Court on 12-01-2009 passed the following :

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :

“Whether the demand of the State Bank of Travancore Employees' Union, Head Office, Trivandrum for payment of special allowance w.e.f. 01-12-1999 to the senior electricians for doing the duties of senior electricians is justified? If so, what relief the workmen are entitled to?”

2. The facts in a nutshell are as follow :—The union has raised the industrial dispute on behalf of two workmen. There were two electricians in State Bank of Travancore. They were demanding promotion for sometime. The union insisted for consideration of the demand of the two electricians. There was a conciliation and a settlement. The

management decided to promote the two electricians as senior electricians in the clerical cadre. However, they were asked to continue to perform the duties of electricians besides duties of senior electricians. The demand is for special allowance, which union contends, is attached to the post of senior electricians as the nature of work they are doing is skilled. But the management contends that the two electricians were promoted as senior electricians with a specific understanding that they will continue to perform all duties of an electrician. There is no provision in any of the settlements or awards to pay special allowance to senior electricians. There is no post of senior electrician in S.B.T. No special allowance is attached to the clerical cadre of senior electrician. As per the settlement they are bound to perform the duties of electricians. They were not promoted to a general cadre post with additional duties. Therefore, the claim is not sustainable.

3. In the light of the above contentions the only point that arises for consideration is :—

Are the Senior Electricians entitled to get special allowance?

The evidence consists of the oral testimony of WW1 and documentary evidence of Exts. W1 to 7 on the side of the union and MW1 and Ext.M1 on the side of the management.

4. The point :—Ext.W3 is a settlement between management and union dated 19-08-1999 by which the management agreed to promote two electricians as senior electricians in the clerical cadre but on an understanding that they will continue to perform all duties of an electrician. In pursuance to that Ext.W4 promotion order was issued. Para 2 of the order says that in addition to the duties and responsibilities of electrician they will have to perform the duties of senior electrician. Ext.W1 is a letter dated 12-04-1991 sent by State Bank of India to State Bank of Travancore in reply to the letter of S.B.T. stating that the electrician in S.B.T. were promoted as senior electricians by creating two posts of senior electricians. Ext. W2 is a letter of Chief Manager of S.B.T. to the Manager (Personnel administration) informing that the duties performed by electricians in S.B.T. are similar to the duties of senior electricians of S.B.T. Ext. W6 is representation of union demanding special allowance. Ext. W7 is a reply by management bank to the union stating that the two electricians were promoted to a specialist cadre and not to a general cadre. Hence the demand of the union for special allowance to senior electricians cannot be considered.

Para 5.6 of the First Bipartite Settlement explains what is special allowance. it reads :—

“5.6 The special allowances prescribed above are intended to compensate a workman for performance or discharge of certain additional duties and functions requiring greater skill or responsibility, over and above the routine duties and functions of a workman in the same cadre. In order to be entitled to

a special allowance, such additional duties and functions should constitute the normal part of the duties and functions performed or discharged by a workman. Special allowance are not intended to be paid for casual or occasional performance or discharge or such duties/functions. It would, however, not be necessary that a workman should continue to perform such duties or discharge such functions, whole time, in order to be entitled to such allowance".

Para 5.8 is also relevant and reads :—

"5.8 A workman will be entitled to a special allowance if he is required to perform duty/duties and/or undertake the responsibilities listed against the category, irrespective of his designation/nomenclature or any general authority vested in him".

5. Exts. W5 and 5(a) enumerate the duties of electricians and senior electricians respectively in S.B.T. The First Bipartite Settlement is dated 19-10-1966. Ext. W3 settlement by which it was decided to promote electricians as Senior Electricians is dated 19-08-1999. Naturally the first Bipartite Settlement will not contain a provision for the post of a senior electrician or as to whether it carries special allowance or not. However none of the subsequent settlements also do not provide for the post of senior electricians. It may be either because the posts are not created or because the union has not brought it to the notice of management. Whether a post carries special allowance is a matter for consideration by the Management unilaterally or by union and management together through a Bipartite Settlement. But as mentioned above none of the settlements subsequent to 1999 contain a provision for a payment of special allowance to senior electricians nor a post of senior electrician is seen created. However the electricians were promoted to the clerical cadre by Ext. W4 promotion order. There is no dispute that the post of electrician carries special allowance due to the skilled nature of work. Ext. W4 order says that even when the two electricians were promoted their prime duty was to function as electrician and in addition to that they were to perform the duties of senior electrician. The duties of electricians and senior electrician are enumerated in Ext. W5 and 5(a) as already mentioned. The duties of electricians is definitely a skilled work and it is a function over and above the routine duties and functions of a workman in a sub-ordinate cadre. Therefore provision is made in the Bipartite Settlement for payment of special allowance to electricians. In para 5.3 of First Bipartite Settlement the categories of subordinate staff, who are entitled to special allowance, are mentioned. Sl.No. 11 is electrician. Even though the post of senior electrician does not attract special allowance the workmen in this case were discharging all the duties of electricians. Para 5.8 of the settlement makes it clear that irrespective of the designation/nomenclature the employees are entitled to special allowance if they are required to perform the duties listed against a category. When a post attracts special

allowance and all the duties attached to that post is discharged on a permanent basis by persons in higher cadre they cannot be denied special allowance on the ground that the promoted post do not carry special allowance. It is for discharging duties attached to a post which carries special allowance that the necessity to pay such allowance arises. Other than the two senior Electricians there is nobody else to attend to electrical work in the bank. It follows therefore that though the demand for special allowance for the post of senior electrician cannot stand, since the workman are discharging all the duties of an electrician they are entitled to get special allowance which is attached to the post of Electrician.

In the result an award is passed finding that the demand of the union for payment of special allowance to senior electricians for doing the duties of senior electricians is not justified, but the workman are entitled to get special allowance attached to the post of Electricians as they are discharging all the duties of electricians on a permanent basis.

The award will come into force one month after its publication in the official gazette.

Dictated to the personnel Assistant, transcribed and typed by her, corrected and passed by me on this the 12th day of January, 2009.

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Union

WW1 - 21-02-2008 Shri C. James Raj.

Witness for the Management

MW1 - 14-08-2008 Shri R. Sathesh Kumar

Exhibits for the Union

- W1 - copy of letter No. SBD/000946 dated 12th April 1991 of State Bank of India, Bombay
- W2 - Copy of letter No. Prom/8/593 dated 4th June 1991 of State Bank of Travancore.
- W3 - Copy of memorandum of settlement between the management of State Bank of Travancore and the Union on 19-08-1999.
- W4 - Copy of letter No. PAD/5/30 dated 3rd January, 2000 of State Bank of Travancore, Head Office, Trivandrum.
- W5 - Copy of duties of Electricians.
- W6 - Copy of letter No. SBTEU/MD/364/2001 dated 2nd May, 2001 of State Bank of Travancore Employees' Union (Regd.), Thiruvananthapuram.
- W7 - Copy of letter dated 12-06-2001 from the management to the General Secretary, State Bank of Travancore Employees Union, Trivandrum.

Exhibit for the management

- M1 - Copy of letter No. PAD/3/582 dated 19-02-2000 from the Management to the Workman.

नई दिल्ली, 28 जनवरी, 2009

क्र.आ. 440.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्थन रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 22/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-1-2009 को प्राप्त हुआ था।

[सं. एल-41012/171/2005-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th January, 2009

S.O. 440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 22/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of Northern Railway, and their workmen, received by the Central Government on 28-1-2009.

[No. L-41012/171/2005-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Present : N. K. Purohit, Presiding Officer

I. D. No. 22/2006

Ref. No. L-41012/171/2005-IR(B-I) dated : 7-8-2005

BETWEEN

Smt. Ahilyavati W/o Late Shripat
House No. 47, Baba Ka Purva
Near Paper Mill, Nishatganj
Lucknow (U.P.)

AND

The Divisional Mechanical Engineer (KV)
Northern Railway, DRM Office, Hazratganj,
Lucknow.

AWARD

12-1-2009

By order No. L-41012/ 171 /2005-IR(B- I) dated : 07-08-2006 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred following industrial dispute between Smt. Ahilyavati W/o Late Shripat, House No. 47, Baba Ka Purva, Near Paper Mill, Nishatganj, Lucknow and the Divisional Mechanical Engineer (KV), Northern Railway, DRM Office, Hazratganj, Lucknow for adjudication.

2. The reference under adjudication is :

"क्या मण्डल यांत्रिक अभियन्ता (कै. वै) उत्तर रेलवे, लखनऊ द्वारा एवं श्रीपत पूर्व फिटर 3 टिकिट नं. 115 को दण्डादेश दि. 19-8-2002 के द्वारा अनिवार्य सेवा निवृत्ति का दण्ड दिया जाना न्यायोचित एवं न्यायसंगत है ? यदि नहीं तो पूर्व कामगार की पत्नी श्रीमति अहिल्यावती किस राहत को पाने की हकदार है ?"

3. In brief, the case of the claimant Smt. Ahilyavati is that her husband, Late Shripat was employed under CDO, NR, Lucknow who died on 31-8-2002 due to illness. It has been submitted that her husband had informed his office that he was unable to continue with his job due to his prolonged illness, and requested to retire him on medical grounds and give compassionate appointment to his son vide his application dt. 24-8-2001. It is further submitted that the employer neither tried to ascertain the truth nor directed her husband to appear before Medical Board; but instead imposed punishment of compulsory retirement vide order dated 19-8-2001, which is violative of rules of natural justice, provisions of Industrial Disputes Act, 1947 as well as Rules of the Railways. The claimant has further submitted that subsequent to demise of her husband on 31-8-2002, she made an appeal against punishment order dt. 23-9-2002 vide her application dt. 23-9-2002 which is still under consideration, this again violates rules of natural justice and Railway Rules. Accordingly, the claimant has prayed that punishment order be quashed and she may be awarded all consequential benefits apart from compassionate appointment.

4. The management of the Railways has denied the averments made by the claimant in her statement of claim. The management has submitted that the deceased employee remained unauthorizedly absent from duty w.e.f. 25-7-99 to 17-5-2001, without any information for his absence or sanctioned leave for the same. It is further submitted that the punishment order dt. 19-8-2002 was passed by the Competent Authority after issue of charge sheet to the deceased employee and conducting the inquiry by the Enquiry Officer under the Railway Servants (Discipline & Appeal) Rules, 1968. It has been alleged by the management that the deceased employee was served upon charge sheet by registered post vide letter dt. 17-5-2001 and thereafter he appeared before the management and submitted an application showing his inability to work and requested for compassionate appointment of his son, which was not possible in absence of any provision under Railway Rules. The deceased employee was given full opportunity to defend his case but he failed to avail the same. The management has further submitted that neither the workman nor the claimant ever preferred any appeal against the impugned order. The management of Railways has prayed that the claim of the claimant be rejected as its action in imposing punishment

upon deceased employee, Shripat was just and in accordance with the Railway Rules and rules of natural justice.

5. In rejoinder filed by the claimant except reiterating the facts stated earlier in the statement of claim no new plea has been taken.

6. The parties have filed documents in support of their respective cases. The claimant has examined herself as witness whereas the management has examined Sh. C. Bond, Office Supdt. -II ADME (CDO), NR, Lucknow. The parties cross examined each other's witness and filed written argument apart from making oral submissions.

7. Heard arguments of learned representative of both the parties and perused the relevant record.

8. It is settled position of law that power of punishment to an employee is within the discretion of the employer and ordinarily the courts do not interfere, unless it is found that either the enquiry proceedings or punishment is vitiated because of non observance of relevant Rules or Regulations or principle of natural justice or denial of reasonable opportunity to defend etc. or that the punishment is totally disproportionate to prove misconduct of an employee.

9. Thus, the short question that arises for consideration is whether the impugned order is vitiated on any of the ground noted above.

10. The charge levelled against the claimant are as under :

“आप दिनांक 25-7-99 से लगातार अपने कार्य स्थान से अनधिकृत रूप में अनुपस्थित हैं। इस प्रकार आपने अपने कार्य के प्रति लापरवाही बरती और आपने अपने आपको उत्तरदायी बताया”।

11. The Enquiry Officer found the above charge proved & observed in his report dt. 7-4-2002 that;

“श्रीपत फिटर द्वारा लखनऊ में रेलवे की ओर से उच्चतम चिकित्सा सुविधा होने पर भी अपने इलाज का कोई प्रमाण नहीं दिया है। उसके साथ रेलवे के अतिरिक्त कहीं भी चिकित्सा करने का प्रमाण नहीं दिया है। उपरोक्त कर्मचारी को अनेक बार कार्यालय एवं कार्यस्थल के सूचना पट्ट के माध्यम से जांच में उपस्थित होने के लिए सूचना भेजी गई तथा निश्चित अवधि तक प्रतीक्षा की गई। श्रीपत फिटर के स्पष्टीकरण के आधार पर वह अपने सड़के को नौकरी दिलाने के प्रति जागरूक प्रतीत होता है लेकिन ऐसा प्रावधान किसी प्रक्रिया में संलग्न नहीं है”।

12. The Disciplinary Authority agreeing with the finding of the Enquiry Officer, imposed penalty of compulsory retirement vide impugned order dt. 19-8-2002.

13. Learned representative on behalf of the claimant has argued that the enquiry against the workman has been

done without giving proper opportunity to the workman to participate and cross examine the witness in the proceedings & no show cause notice was given to the workman therefore, impugned order is against the principle of natural justice.

14. Per contra learned representative on behalf of the management has urged that inquiry was conducted after following due procedure and opportunity was given to the workman to appear and participate in the inquiry but he did not turn up. He has further urged that workman was absent since 29-7-99 therefore, an inquiry was set up by issuing standard Form No. 5 to the employee alongwith charge sheet and after inquiry show cause notice dt. 23-5-2002 alongwith inquiry report was also served upon the workman. He has also stated that on compassionate ground appointment can not be given under rules to the son or wife of the workman.

15. I have given my thoughtful consideration on the rival submissions & in light of submissions carefully perused the relevant documentary & oral evidence on the record.

16. In support of her claim, the claimant Smt. Ahliyavati has stated that the workman was ill for the last 4 to 5 years and he remained admitted in Indore Hospital & later on in Civil Hospital, Hazratganj where he died. Subsequent to his death, she received impugned order. She has also stated that against this order an appeal was filed which is still pending. She has further stated that although she is getting pension but opposite party has not given appointment to his son so far. But in cross-examination she has also admitted that no appeal was filed against the impugned order, only an application was submitted. She has also admitted that workman had not taken any treatment from the Railway Hospital.

17. In rebuttal, the management witness Sh. C. Bond, Office Supdt.-II has stated that workman was continuously absent from 25-7-99. Therefore, standard Form No. 5 was issued to him and after enquiry, enquiry report was submitted on 7-4-2002, later on memo dt. 23-5-02 alongwith copy of the enquiry report was sent to the workman and subsequent to that he was compulsory retired vide impugned order. In cross-examination he has stated that inquiry officer vide notice dt. 9-9-01, 9-12-01 & 24-2-2002 had informed the workman to remain present during the inquiry proceeding otherwise ex-parte proceedings would be drawn against him.

18. In documentary evidence copies of the death certificate of the workman, application dt. 24-8-2001 submitted by the workman for appointment of his son on compassionate ground, charge sheet, memorandum, enquiry report dt. 7-4-2002 order of the Disciplinary Authority dt. 19-8-2002, show cause notice dt. 19-8-2002 application dt. 23-9-2002 submitted by the claimant for giving appointment to son of the deceased workman on

compassionate ground. Memo dt. 23-5-2002 alongwith enquiry report have been produced.

19. From application dt. 24-8-2001 submitted by the workman it reveals that he had received Standard Form No. 5 dt. 17-5-2001 by registered post & it also reveals that on 24-8-2001 he personally appeared alongwith his son & requested that due to illness he was not in a position to participate in the enquiry & made a request for appointment of his son in his place.

20. It is evident from the above oral and documentary evidence on record and admitted facts in the averments of both the side that workman remained continuously absent from his duty since 25-7-99 till impugned order dt. 19-8-2001 was passed & an application dt. 24-8-01 was submitted by him wherein he requested that due to prolonged illness he was not in a position to continue with the job so he may be retired on medical ground & his son be given appointed on compassionate ground.

21. Absence during the alleged period in the charge is an admitted fact. The claimant has admitted that claimant had not taken any treatment from the Railway Hospital. It is not the case of the claimant that any medical certificate for his illness or any application for leave on medical ground was ever produced by the workman during proceeding of the inquiry or prior to the inflation of the inquiry. From the evidence of the management witness it is also evident that number of times notice were issued to the workman for participation in the proceedings but he did not turn up. Neither in the statement of claim nor in statement or the claimant Smt. Ahliyavati, there is any allegation that opportunity of cross examination was not given to the workman. She has not alleged in her statement that charge sheet was not served or notice for participation in the inquiry proceedings was not issued to her husband. It is also not alleged that the copy of the inquiry was not served upon the workman. Though, there are pleadings in the statement of claim that inquiry was conducted in violation of principle of natural justice but the claimant has not alleged in her statement on oath that any principle of natural justice has been violated. From the documents filed by the claimant, it reveal that all the procedural requirement have been complied with & since the impugned order has been challenged by the claimant's side burden was on the claimant to establish alleged violation of principle of natural justice or any relevant rules pertaining to inquiry.

22. As regard giving appointment on compassionate ground to the claimant or his son is concerned, it is not within, the purview and jurisdiction of the Tribunal to give such relief.

23. In view of the above discussion the claimant has failed to prove that impugned order is in violation of principal of natural justice nor against any relevant rules of the Railway or perverse in any manner.

24. Accordingly, the reference is adjudicated against the claimant. She is not not entitled to any relief.

25. Award Accordingly.

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 28 जनवरी, 2009

का.आ. 441.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 01/1991) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-1-2009 को प्राप्त हुआ था।

[सं. एल-12012/60/1988-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th January, 2009

S.O. 441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 01/1991) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India, and their workmen, received by the Central Government on 28-1-2009.

[No. L-12012/60/1988-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR

No. CGIT/LC/R/01/91

Presiding Officer : Shri C. M. Singh

Shri Mahesh Nayak,
S/o Shri Harprasad Nayak,
R/o Pratapward, Ghee Godham,
Bina, Distt. Sagar (MP)

...Workman/Union

Versus

Regional Manager,
State Bank of India,
Regional Office, Moti Market,
Gwalior.

...Management

AWARD

Passed on this 12th day of January, 2009

1. The Government of India, Ministry of Labour vide its Notification No.L-12012/60/88-D. III(A)/I.R.B.III dated

3-1-91 has referred the following dispute for adjudication by this tribunal :—

“Whether the action of the management of State Bank of India in terminating the services of Shri Mahesh Nayak, S/o Shri Harprasad Nayak, Casual Labour/subordinate Staff w.e.f. 10-10-86 is justified? If not, to what relief the workman is entitled to?”

2. The case of workman Shri Mahesh Nayak in brief is that he was employed as temporary /casual watchman and messenger at Bina Branch of State Bank of India intermittently from April, 1981 to 10-10-86, the date when his services were terminated. He worked for 92 days in the year 1981, 96 days in the year 1982, 58 days in the year 1983, 92 days in the year 1984 and 102 days in the year 1985. Thus from 1981 to 1985, he worked for 440 days only. No reason of termination of workman's services was given by the management. It has been averred by the workman that during the period he was employed, he had completed continuous service for an year as contemplated under Section 25(B) of the I.D. Act 1947. His termination amounts to retrenchment and the same having been brought without complying with the provisions of Section 25(F) of the I.D. Act 1947 is void-ab-initio. Though the workman's services were terminated, his juniors namely one Shri Khemchand Sen has been given employment in the year 1987. Similarly one Shri Rambabu Jharia, who had worked only for 90 days as messenger has also been given appointment and are continuing in service till now. It is clear from the above that the work is available and without any justification, the management has refused to give work to him. The workman has come to know that the management of State Bank of India has entered into some agreement with the All India Federation and cases of all such employees who have completed 90 days work have been considered for regularization and many such persons have been given regular appointment by the management of State Bank of India in various branches of MP. However, the workman even though he has worked from 1981 to 1986, his case has not been considered for regularization. This is unjustified and is in contravention to the provisions of I.D. Act 1947. It has been averred by the workman that his termination is illegal and he is entitled to be reinstated with full back wages. The workman has been subjected to hostile discrimination without any justification. In the recruitment process in the year 1985 the workman's case was considered. It has been denied that he failed in interview as pleaded by the management. The additional educational qualifications of the workman was considered as negative. The termination of the workman is illegal, arbitrary and unjust. That the workman is entitled to be reinstated with full back wages.

3. The case of the management in brief is that due to exigencies, Bina Branch of State Bank of India had taken

services of workman Shri Mahesh Nayak on different dates i.e. 92 days in the year 1981, 99 days in the year 1982, 68 days in the year 1983, 101 days in the year 1984, 102 days in the year 1985 and 87 days in the year 1986. He was engaged on daily wages and not against any vacant post. He was engaged only to attend casual work which was sometimes for full days and sometimes for few hours. Sometimes the workman gave services of messenger and sometimes of waterman etc. He was not in continuous employment and was never engaged for 240 days in a year. That in the year 1985, it was decided to recruit persons permanently for the post of messengers to recruit candidates. For the purpose of messenger, an independent Interview Board was duly constituted as per rules of the Bank. Further, although workman Shri Mahesh Nayak had not completed 240 days of continuous service in 12 calendar months even then the Bank took lenient and generous view in his favour and had given him the opportunity of appearing before Interview Board for absorbing him permanently in the Bank, if he qualified. But he could not succeed. Since he could not succeed in selection process, therefore, the Bank had to be discontinued to engage him from doing casual work w.e.f. 9th Oct. 1986. The case of the workman is not covered within the meaning of the term “retrenchment” under Sec. 25(F) of the I. D. Act 1947. That in this case, provisions of Sec-25(B) or 25(F) of the I. D. Act 1947 are not at all attracted. The management has pleaded that the case of workman has no merit.

4. The workman in order to prove his case examined himself. The management in order to defend the case examined Shri G.N. Vachhani, then posted as Dy. Manager, Industrial Branch, State Bank of India, Gwalior and Shri Balbir Singh Slatii, SLA, then posted as cashier in State Bank of India, Bina Branch, Bina.

5. Both the parties have filed certain documentary evidence in support of their respective claims which shall be referred in the body of this award at appropriate places where the need be.

6. The learned counsel for the workman submitted that the workman was continuously employed as temporary casual watchman and messenger at Bina Branch of State Bank of India w.e.f. April, 1981 to 10-10-1986, the date on which his services were terminated. That the workman was refused employment from 10-10-1986 without any reason, without issuing any charge sheet and without notice. That no opportunity was given to him of being heard. That his junior Shri Khemchand Sen has been given employment in the year 1987 and similarly his junior Shri Rambabu who had worked only for 90 days as messenger has also been given appointment. That he is evident from the above that the work was available and without any justification the management has refused to give work to the workman. The learned counsel for the workman further submitted that the case of the workman as mentioned above is fully proved

from the oral and documentary evidence on record. Against the above, the learned counsel for the management submitted that due to exigencies, Bina Branch of State Bank of India had taken services of workman Shri Mahesh Nayak on different dates, he was engaged on daily wages and not against any vacant post. That he was engaged to attend casual work which was sometimes available for full days and sometimes for few hours. Workman Shri Mahesh Nayak in his evidence of cross-examination deposed the details of his work done in the Bank as shown in Exhibit M -1. According to Exhibit M-1, he worked for 92 days in the year 1981, 99 days in the year 1982, 68 days in the year 1983, 101 days in the year 1984, 102 days in the year 1985 and 87 days in the year 1986. Thus according to own evidence of workman Shri Mahesh Nayak, he worked intermittently for 549 days in total at Bina Branch of State Bank of India. The workman Shri Mahesh Nayak in his evidence of cross examination deposed that Bank used to employ him when his services were needed. This witness deposed that he was not given any appointment order. During the course of evidence of his cross examination, he expressed his ignorance, if he was employed on daily wages. Management's witness G.N. Vachhani, then posted as Dy. Manager, Industrial Branch, State Bank of India, Gwalior deposed that he was posted at Branch office Bina Branch w.e.f. 21-7-86 to 1-7-89. Management's another witness Shri Balbir Singh Slathi deposed that he is posted as cashier at Bina Branch of State Bank of India, Bina since 1980. Both these witnesses of the management deposed that workman Shri Mahesh Nayak was engaged on daily wages at Bina Branch of State Bank of India. They further deposed that the details of statement of working days of workman is given in Exhibit M-1. Thus according to evidence of workman as well as management's witness, Shri Mahesh Nayak worked intermittently for a total number of 549 days w.e.f. 1981 till he was refused to work. Both the above named management's witnesses have deposed that engagement of Shri Mahesh Nayak was purely on daily wages and the same was not against any vacant post. That he was a casual employee and was not appointed on any post. It is to be noted that Shri Mahesh deposed in his evidence of cross examination that he has no knowledge, if his engagement was on daily wages and admitted that the Bank used to engage him when his services were needed. Shri Balbir Singh, Management's witness deposed that engagement of Shri Mahesh was sometimes for full days and sometimes for few hours. It is proved from the above evidence of both the management's witnesses and the workman that Shri Mahesh Nayak was engaged as daily wage intermittently from 1981 till he was refused to work in the year 1986 at Bina Branch of State Bank of India. He was engaged only when his services were needed. That he was not employed or appointed on a vacant post according to recruitment rules. It is not proved from the evidence on record that Shri Mahesh Nayak served the Bank

continuously for not less than 240 days in the preceding year of his termination from service. Therefore the provisions of Sec. 25-B of the I. D. Act 1947 are not attracted in this case. Consequently provisions of Sec. 25-F of the I.D. Act 1947 do not apply in this case. The workman is not entitled to be reinstated on the ground that he has been in continuous service for not less than 240 days in the preceding year of his termination from the Bank's services. Under the circumstances, it was not legally needed to issue one months notice in writing to the workman indicating the reasons for discontinuation of service. It was also not needed to pay wages to the workman in lieu of notice. Similarly it was also not legally required to give him retrenchment compensation to the workman as he was not retrenched but ceased to work as casual employee on daily wages.

7. It has been submitted by the learned counsel for the workman that a settlement was arrived between the management of the State Bank of India and the SBI Employees Union by virtue of which the cases of all such employees who had completed 90 days work were considered for regularization and many such persons were given regular appointments by the management of State Bank of India in various branches of MP. That in the recruitment process in the year 1985, the workman's case was also considered but it is denied that he failed in interview as pleaded by the management. Against the above, the learned counsel for the management submitted that in the year 1985 it was decided to recruit persons permanently for the post of messengers and for the same, an independent Interview Board was duly constituted as per rules of the Bank. That taking a lenient view the workman was given an opportunity of appearing before the Interview Board for absorbing him permanently in the Bank, if he qualified, but he could not succeed and hence he was not appointed. The management has filed the terms of settlement arrived at between the State Bank of India and the SBI Employee Union on 15-2-85. List of candidates called for interview vide settlement dated 15-2-85 and the list of selected candidates on the basis of interview held in 1985. It is admitted to the parties that workman Shri Mahesh Nayak appeared in the said interview. But according to management, he could not succeed in the interview. It is averred by the workman that it is wrong to say that he did not succeed in the interview. It is to be noted here that management's witness Shri G.N. Vachhani during his evidence of cross examination expressed his ignorance, if the workman was called for the interview or not. Similarly the evidence of cross examination of Shri Balbir Singh Slathi reveals that perhaps he has no knowledge regarding the interview held in the year 1985. However it is proved from the oral testimony of workman Shri Mahesh Nayak and list of candidates called for interview that workman Shri Mahesh Nayak appeared in the interview held in 1985. The

management has filed true-copy of letter No. RM/II/S.Sub/347 dated 19-2-86. It appears to be a letter informing the Branch Manager, State Bank of India, Bina by Regional Manager that Shri Mahesh Nayak was not found suitable in the interview held on 13-10-85. The management has also filed the list of candidates appeared in interview on 13-10-85. The management has also filed the list of candidates appeared in interview on 13-10-85 and the marks obtained by them along with remarks. It is no doubt, a photocopy but has been attested by the notary, Gwalior. It reveals that workman Shri Mahesh Nayak secured 48 marks out of 100 in the aforesaid interview. The remark column in front of the name of workman Mahesh Nayak is hazy. It appears to be erased. The reason for his non-selection is noted in this column as "overage at the time of initial appointment". It shall be worthwhile to note here that the candidates who secure less mark than workman Shri Mahesh Nayak were selected in the interview and were found suitable for appointment. It has been submitted by the learned counsel for the workman that according to the extract from the State Bank of India regarding service conditions of award staff eligibility for recruitment in subordinate cadre, requires that the candidate's minimum age must be 18 years and the maximum age must be 26 years. It is admitted case of the parties that first of all, the workman was employed by Bina Branch of State Bank of India in the month of April 1981. Para-2 of the terms of settlement reveals that it was agreed upon between the parties that a temporary employee of overage, relaxation in age will be given, if he was found within the age limit prescribed for recruitment in subordinate cadre at the time of initial temporary appointment. The workman has filed true copy of Board of Secondary Education, MP, Bhopal, Higher Secondary School Certificate Examination Marks Sheet 1978. In this certificate, the date of birth of workman is recorded as 2-10-1956, which clearly means that at the time of initial temporary appointment, the workman was aged about 25 years and 6 months. He was rejected in the interview on the alleged ground of being overaged at the time of initial appointment is clearly wrong and unjustified. It means he was not at all overaged at the time of initial temporary appointment and only on this ground that he was overaged at the time of initial temporary appointment, he could not be rejected in the interview rather he deserves to be succeeded in that interview. It is, therefore, concluded that workman Shri Mahesh Nayak must have been found suitable in interview by the Interview Board and his rejection on the ground that he was overaged at the time of initial temporary appointment is without any basis and liable to be quashed.

8. In view of the above, the workman is entitled for appointment as messenger in the State Bank of India under the Regional Office at Moti Market, Gwalior.

9. Now it is to be considered if the workman is entitled to back wages. Nothing has been averred in the statement of claim and rejoinder filed by the workman that he had not been gainfully employed since the other successful candidates in the interview were appointed. I, therefore, found myself unable to award back wages and benefits to the workman.

10. In view of the above, the reference deserves to be decided in favour of workman Shri Mahesh Nayak and against the management with costs.

11. The reference is decided in favour of Shri Mahesh Nayak and against the management of State Bank of India with costs holding that removing him from service is illegal and unjustified because of his being succeeded in interview held in the year 1985 for the post of Messenger and he was wrongly and illegally declared unsuccessful in the aforesaid interview. Therefore, the management is directed to regularize the services of workman Shri Mahesh Nayak and to appoint him as messenger in the State Bank of India under the Regional Office at Moti Market, Gwalior on the basis of interview held in the year 1985. The reference is answered accordingly.

12. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 28 जनवरी, 2009

का.आ. 442.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोक्ताओं और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, इरनाकुलम के संज्ञा (संदर्भ संख्या 309/2006) को प्रकटित करती है, जो केन्द्रीय सरकार को 28-1-2009 को प्राप्त हुआ था।

[सं. एल-12012/291/1999-आई.एल.सी-1]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th January, 2009

S.O. 442.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 309/2006) of the Central Government Industrial Tribunal cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India, and their workmen, received by the Central Government on 28-1-2009.

[No. L-12012/291/1999-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM**

Present: Shri P. L. Norbert, B.A., LL.B., Presiding Officer
Monday, the 22nd day of December, 2008/1st Pausa 1930)

I. D. No. 309/2006

(I. D. No. 73/1999 of Labour Court, Ernakulam)

T. R. Sethumadhavan,
C/o. T. R. Malathi, SBI,
LIC Building, M. G. Road,
Kochi.

...Workman

Adv. Sri. K. A. Abraham.

The Assistant General Manager,
Region-II, State Bank of India,
Zonal Office, Ernakulam - 682 011.

...Management

By Adv. Sri. George Thomas.

This case coming up for hearing on 16-12-2008, this Tribunal-cum-Labour Court on 22-12-2008 passed the following:

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is:

"Whether the action of management of State Bank of India in dismissing the service of Shri T. R. Sethumadhavan Clerk, Chowannur branch w.e.f. 10-2-1998 for certain alleged charges is justified. If not, to what relief the workman is entitled to?"

2. The facts in a nutshell are as follows:— Sri.T. R. Sethumadhavan was a Clerk of State Bank of India, Chowannur Branch. He was charge-sheeted for committing irregularities and manipulation in the accounts of customers and misappropriation of money and absence from duty without permission and without leave. On the said allegations an enquiry was conducted and he was found guilty of charges 1 and 3. Based on the findings of Enquiry Officer and concurring with the findings the disciplinary authority dismissed him from service as per order dated 10-2-1998. Though he filed an appeal, he did not succeed. Hence the workman has raised the dispute.

3. According to the workman the enquiry is defective and invalid for violation of the principles of natural justice and non examination of complainant or any witness on the side of the management. The documents produced are unauthenticated copies and are not proved properly. The workman was not given a fair and reasonable opportunity. There are no materials to hold the workman guilty. The findings are perverse. The Enquiry Officer was not impartial. At any rate the punishment is shockingly disproportionate

to the charges. Hence the workman is entitled to be reinstated in service with all consequential benefits.

4. According to the management the workman misappropriated money entrusted to him for remittance by customers. The enquiry was conducted following the procedure and complying with principles of natural justice. The workman was defended by a defence representative. He was given copies of all documents relied on by the management. A list of witnesses was also given to him. The sole witness cited on management side did not turn up to give evidence due to pressure of official work and the request of the management for time was not allowed by the Enquiry Officer. Customers were not willing to come forward to give evidence. On the defence side nobody was examined. But documents produced by the delinquent were marked. The Enquiry Officer found the workman guilty of charges 1 and 3 based on records. The Disciplinary Authority concurred with the findings and after hearing the workman on the proposed punishment, the penalty of dismissal from service was imposed. The appeal filed by the workman was dismissed. The punishment is commensurate with the gravity of the offence. For similar misconduct the workman was punished on a previous occasion barring his increments. Therefore, he is not entitled for any relief.

5. In the light of the above contentions the following points arise for consideration:

1. Is the enquiry valid?
2. Are the findings sustainable?
3. Is the punishment proper?

The evidence consists of the oral testimony of MW 1 and the documentary evidence of Ext. M 1 enquiry file on the side of the management and no evidence on the side of workman.

6. Point No. 1 :— At the time of argument the learned counsel for the workman did not press this issue and hence I do not propose to go into the issue regarding validity and propriety of enquiry.

7. Point No. 2 :— Five charges were levelled against the workman. The first four charges relate to misappropriation of money of one customer and late remittance of the amounts entrusted by three other customers. The 5th charge is unauthorised absence. The Enquiry Officer found charges 1 and 3 as proved. That finding alone is under challenge.

8. The first charge is that customer, Shri R. V. Siddhi had sent his son on 29-05-1995 to bank for remitting Rs. 1000 in his SB account. The workman was then sitting near the "May I help you" counter. The workman filled up the pay-in-slip, obtained the signature of account holder's son on the pay-in-slip, accepted cash of Rs. 1,000, made

entry in the pass book, made entry in the ledger account and returned the pass book to account holder's son. However he did not record the remittance in other books of accounts and cashier's receipt scroll. The Branch Manager on verification of accounts came across the discrepancy and questioned the workman.

9. The third charge is that the workman had received Rs.5,000 from Smt. Lizi Jos for remittance on 15-05-1995 into her SB account. The workman made entry in the pass book. But the amount was not accounted in the bank on the same day, but only on 9-6-1995.

10. In the enquiry 19 documents are seen presented by the management and marked as Exts. PEX-1 to 19. However nobody was examined on management side. On the defence side 7 documents were allowed to be introduced. Out of which documents No. 4, 5, 6 and 7 were not available with the defence and they were to be produced by the management and the enquiry officer had directed the management to make those documents available to the defence. However all the seven documents were marked as Exts. DEX-1 to 7 as soon as the defence mentioned the documents to be marked. No witness was examined on the defence side also. The finding of the Enquiry Officer with regard to charges 1 and 3 are as follows :

"CHARGE No. 1

The Presenting Officer has come to the conclusion that the Charge stands proved on the basis of the evidences. The D.R. disputes that the CSE was not "attending" to the "May I help you" counter, whereas as per the charge sheet he was "sitting" near the said counter. While the DR states that the handwriting of the CSE was not established, the Enquiry Officer is of the view that since the documents presented by the Prosecution and Exhibits are not disputed by the defence and the fact that the CSE in his reply to the "Charges sheet" (D. EX-3) has not disputed the preparation of the voucher and the entry in the Pass Book, the circumstantial evidence goes against the CSE. Further, the DR's contention that there was no complaint from the A/c. holder's son does not carry conviction, particularly when the letter written by Sri.R.V.Siddi to AGM, SBI, Ernakulam (PEX. 18) was not disputed. In our dealings, the Bank cannot take a stand that it would act only when a complaint is received, knowing fully well that an irregularity has been perpetrated. In this case, as the CSE is a person of sufficient experience as to the Bank's working systems, his contention that he acted as is the practice at the Bank (D. EX. 3) cannot be accepted. Thus all considered, I am inclined to state notwithstanding the points which are more technical in nature - made by the DR, the charge against the CSE stands PROVED".

"Charge 3

Here again the Defence arguments are on the lines indicated against Charge 2 above. Hence by all accounts

there is no reason to disbelieve the fact that the entry in the Pass Book of S.B. A/c. No. 4/1933 dt. 15-5-1995 was not made by the CSE. Since the Pass Book entry and the Cashier's receipt scroll (No. 22) of Chowannur Branch dt. 9-6-1995 clearly establishes that by all accounts the CSE had received the amount (Rs. 5000) on 15-5-1995 and in token thereof made an entry in the relative Pass Book (PEX- 14) because the CSE cannot be considered as a person unmindful of what he does. Thus I conclude that this charge stands PROVED".

It is a cryptic finding. With regard to charge No. 1 the management mainly relied on the ledger sheet pertaining to the SB account of Sri. R.V. Siddi (PEX-5), Pass Book (PEX-7), SB day book (PEX-1), Cashier's receipt Scroll (PEX-6) and reply of the delinquent to the charge sheet (DEX-3). Regarding charge No.3 the management relied on the pass book of Smt. Lizi Jos (PEX-14), Cashier's receipt scroll (PEX-19) and ledger sheet of SB account (PEX-12). But it is to be noted that nobody was examined on management side to identify the handwriting of relevant entries in the books of accounts and pass books of customers. On the basis of the records it was not proper for the enquiry officer to presume and assume that relevant entries were made or omitted to be made by the workman. The workman, according to the management, was sitting near the "May I help You" counter. It is for the management to show that the person sitting in the "May I help you" counter had to make entries in different books of accounts or they were to be made by some other concerned clerks. The fact that the workman did not object to the marking of management documents does not mean that the charges are admitted by him. It is not seen from the proceedings that the Enquiry Officer had asked the workman whether he had any objection in marking the documents. The Enquiry Officer cannot don the robe of the prosecution and prove the prosecution case. The burden is on the prosecution to prove the allegations levelled against the delinquent with sufficient materials. It is not enough to throw some documents before the Enquiry Officer and shift the burden to him to prove the charges. Precisely that has happened in this case. The sole prosecution witness, a Senior Officer of the bank did not turn up on the allotted day for tendering evidence, on the ground that he was officially busy. But the Enquiry Officer proceeded with the enquiry and concluded the proceedings. However the connecting link is missing. Nobody has identified the handwriting of the relevant entries in the pass book and other books of accounts. The Enquiry Officer cannot step into the shoes of prosecution witness and identify the handwriting in different records.

11. The Disciplinary Authority had differed with the finding with regard to charge No. 3 and held that charge No.1 alone stood proved and the remaining four charges were not proved. However the successor Disciplinary Authority reviewed the whole findings of predecessor

disciplinary authority and held that charges 1 and 3 stood proved. The predecessor Disciplinary Authority (Regional Manager) recorded his findings and order of punishment in continuation of the enquiry proceedings. The punishment proposed was stoppage of three increments for a period of three years with cumulative effect. Before imposing the punishment quite surprisingly another disciplinary authority took charge and on the guise of complying with the procedural formality of furnishing a copy of enquiry report to the delinquent reviewed the order of predecessor Disciplinary Authority differing with the findings and proposed punishment. But before differing with the findings of the first Disciplinary Authority no notice was given to the workman informing him that he was going to differ with the findings of the first Disciplinary Authority. However it is seen from the records that a copy of report was already given before the first Disciplinary Authority passed the order. Therefore the intention of the management was not really to comply with the procedural formality or to set right the defects in the procedure, but to throw the workman out of service somehow. The 2nd Disciplinary Authority had no authority to review the order of 1st Disciplinary Authority suo motu. The management adopted an indifferent attitude in the disciplinary action. There was no earnest effort to see that the charges are proved. An enquiry for the sake of an enquiry alone was in the contemplation of the management. But it is unknown to labour jurisprudence that two successive Disciplinary Authorities passing two different orders in respect of the same disciplinary proceedings and imposing dissimilar penalties on the same delinquent without hearing the delinquent. The whole disciplinary action is shrouded in mystery. The management was not serious in prosecuting the delinquent as the sole witness cited by the management was not examined. There is total absence of evidence to bring the delinquent to book. It is not enough to produce some documents and sit back, without proving their relevancy to the charges and relation to the delinquent. The findings of enquiry Officer and Disciplinary authority are therefore unsustainable.

12. However the learned counsel for the management vehemently canvassed for the position that throughout the length and breadth of the pleadings of the claimant, the validity and propriety of enquiry are questioned. Therefore it is necessary to consider that aspect first. That apart there is a plea in the written statement of the management to permit the management to adduce additional evidence to prove the charges before the court. There is no legal bar in providing a chance to the management to prove the charges in case the court finds that the findings of the Enquiry Officer cannot be upheld.

13. It is true that in the claim statement the validity of enquiry is questioned by the workman. But when the matter came up for hearing the learned counsel for the workman

did not press this issue and took a step further admitting that the enquiry was properly conducted and the workman does not pursue his plea regarding validity of enquiry. In view of this a finding regarding the said issue is uncalled for. The management cannot insist that, notwithstanding the admission of the workman, there should be a finding against the management with respect to the procedural aspects of enquiry.

14. As regards the right of the management to adduce either fresh evidence or additional evidence I don't think the submission of the learned counsel is correct. However the learned counsel for the management took me through some of the decisions of Hon'ble High Court of Kerala as well as Hon'ble Supreme Court to say that there is no legal bar in permitting the management to adduce evidence and prove the charges before the court, provided there is a plea in the written statement to that effect. But none of the decisions cited by the learned counsel has expressed such a view. On the contrary it is amply clear from the decisions that either when the enquiry is defective or when there is no enquiry at all, it is open to the management to seek permission of the court for adducing evidence in justification of the action taken against the workman. This is clear from the first case itself cited by the learned counsel and reported in *Poikattusserri K. S. Sangam Ltd. v. Dy. Labour Commissioner* 1988 (1) K.L.T. 879. In *Raveendra Kamath v. Dholakia* 1992 (1) KLT 573 once again the position is clarified. The relevant portion of para 5 reads :—

".....In the context of S.11-A of the Industrial Disputes Act, the matter has been adverted to in detail by the Supreme Court and the High Courts in various decisions. The gravamen of the complaint is that the management did not ask for an opportunity to adduce evidence to substantiate the charge before the Labour Court. But it has to be remembered that the Labour Court, in exercising the jurisdiction under S. 11-A of the Industrial Disputes Act, has to be satisfied that the order of discharge or dismissal was not justified before interfering with the same. In that behalf the Labour Court will have to find preliminarily whether the enquiry was fair and proper and the findings are tainted or perverse or not. Only if these findings are in favour of the worker, the question or the stage arises as to whether the employer could adduce evidence for the first time before the Labour Court justifying the order of discharge or dismissal. Unless that stage is reached, the further questions as to whether it is for the employer to ask for an opportunity to lead evidence and even so what stage of the proceedings such a request should be made will arise....."

In *Cooper Engineering Ltd. v. P.P. Mundhe A.I.R. 1975 S.C. 1900* it is held that when a case of dismissal or discharge of an employee is referred for industrial adjudication the Labour Court should first decide as a

preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty. But when the matter is in controversy between the parties that question must be decided as a preliminary issue. On that decision being pronounced it will be for the management to decide whether it will adduce any evidence before the Labour Court.

In *workmen of F.T. & R.Co. v. The Management* AIR 1973 S.C. 1227 it is held in para 33 as follows :

"If there has been no enquiry held by the employer or if the enquiry is held to be defective, it is open to the employer even now to adduce evidence for the first time before the Tribunal justifying the order of discharge or dismissal. We are not inclined to accept the contention on behalf of the workmen that the right of the employer to adduce evidence before the Tribunal for the first time recognised by this Court in its various decisions, has been taken away. There is no indication in the section that the said right has been abrogated. If the intention of the legislature was to do away with such a right, which has been recognised over a long period of years, as will be noticed by the decisions referred to earlier, the section would have been differently worded. Admittedly there are no express words to that effect, and there is no indication that the section has impliedly changed the law in that respect. Therefore, the position is that even now the employer is entitled to adduce evidence for the first time before the Tribunal even if he had held no enquiry or the enquiry held by him is found to be defective. Of course, an opportunity will have to be given to the workman to lead evidence contra. The stage at which the employer has to ask for such an opportunity, has been pointed out by this Court in *Delhi Cloth and General Mills Co. Ltd.* 1972-I Lab LJ 180-(AIR 1972 SC 1031). No doubt, this procedure may be time consuming, elaborate and cumbersome. As pointed out by this Court in the decision just referred to above, it is open to the Tribunal to deal with the validity of the domestic enquiry, if one has been held as a preliminary issue. If its finding on the subject is in favour of the management then there will be no occasion for additional evidence being cited by the management. But if the finding on this issue is against the management, the Tribunal will have to give the employer an opportunity to cite additional evidence justifying his action. This right in the management to sustain its order by adducing independent evidence before the Tribunal, if no enquiry has been held or if the enquiry is held to be defective, has been given judicial recognition over a long period of years."

The last decision relied on by the learned counsel is reported in *Workmen v. Motipur Sugar Factory* AIR 1965 S.C. 1803. It is a 4 Judges Bench decision. In para-12 it is observed that when there is no enquiry at all or when the enquiry is irregular, invalid or improper the employer should

be given an opportunity to adduce evidence before the court and prove the charges without relying too much on technical considerations.

15. Therefore the correct procedure as laid down in the decisions referred supra is that when the enquiry is invalid or when no enquiry at all is conducted it is open to the employer to adduce evidence afresh before the Industrial Tribunal or Labour Court and prove the charges afresh. That position has not arisen in this case because the validity of enquiry is admitted and conceded by the learned counsel for the workman. Hence even though there is a plea by the management for adducing evidence it cannot be permitted and adjudication has to be made on the basis of the available evidence on record.

16. Point No. 3 :—The punishment imposed by the first Disciplinary Authority is stoppage of three increments for a period of three years with cumulative effect. But the 2nd Disciplinary Authority dismissed the workman from service without notice. The management has not been able to justify the action of the 2nd Disciplinary Authority in sitting over the order of the first Disciplinary Authority. The learned counsel for the management was finding it extremely difficult to explain this comic of the management. At any rate since I have held that the findings of Enquiry Officer as well as the Disciplinary Authorities are unsustainable, it follows that no punishment can be imposed on the workman. Consequently he is to be taken back in service.

In the result an award is passed holding that the action of the management in dismissing the workman Sri T.R. Sethumadhavan from service is not legal and justifiable and he is entitled to be reinstated with back-wages, continuity of service and all other consequential benefits.

The award will come into force one month after its publication in the official gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 22nd day of December, 2008.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the workman : Nil

Witness for the Management

MW1 - 12-5-2008 : Sri.T. N. Ramachandran
Nair.

Exhibit for the workman : Nil

Exhibit for the management
Ext.M 1 - Enquiry File.

नई दिल्ली, 28 जनवरी, 2009

का.आ. 443.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार फेडरल बैंक लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, इरनाकुलम के पंचाट (संदर्भ संख्या 76/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-1-2009 को प्राप्त हुआ था।

[सं. एल-12012/217/1999-आई आर(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 28th January, 2009

S.O. 443.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/2006) of the Central Government Industrial Tribunal-Cum-Labour Court, Ernakulam, as shown in the Annexure, in the Industrial dispute between the management of Federal Bank Ltd., and their workmen, received by the Central Government on 28-1-2009.

[No. L-12012/217/1999-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present : Shri. P. L. Norbert, B.A., LL.B., Presiding Officer
(Thursday the 8th day of January, 2009/24th Pausa 1930)

I.D. 76/2006

(I.D. 64/1999 of Labour Court, Ernakulam)

Union	: The General Secretary, Federal Bank Employees Union, Central Office, Alwaye-683 101. By Adv. Sri C. Anilkumar.
Management	: The Chairman, Federal Bank Ltd., Head Office, Alwaye-683 101. By Adv. Sri Pathrose Mathai.

This case coming up for hearing on 02-01-2009, this Tribunal-cum-Labour Court on 08-01-2009 passed the following.

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :

“Whether the action of the management of Federal Bank in imposing the punishment of stoppage of increment for a period of one year with cumulative effect imposed against the workman Sri G. Harikumar for alleged charges is justified? If not, to what relief the workman is entitled to?”

2. The facts in a nutshell are as follows:- Sri G. Harikumar was a Clerk of Mavelikkara branch of Federal Bank. While so, on certain allegations of misconduct he was charge sheeted on 10-11-1995. He was found guilty of the charges and was punished with stoppage of increment for a period of one year with cumulative effect. Though he filed an appeal he did not succeed. Hence the industrial dispute was raised through union.

3. It is contended by the union that the enquiry was conducted in gross violation of principles of natural justice and fairness. The findings of the Enquiry Officer are perverse. The workman was victimised by the management. He is innocent. He is entitled to be exonerated from the charges.

4. According to the management the workman was in the cash section during October 1995. He was not co-operative with his associates and the officers of the bank in the business. On 04-10-1995 he refused to receive bulk remittances from two account holders and directed them to the Manager. On the same day the workman deliberately delayed payments to members of the staff and payment to meet office expenditure. He made unnecessary and derogatory comments against the Senior Manager and other officers of the bank. He failed to attend the work of P&L subsidiary writing and P&L ledger posting from 04-10-1995 onwards. He was lethargic in getting the currency stitched on time and as a result the currency accumulated to the tune of more than Rs. 20 lakhs. On 13-10-1995 he was served with an officer order directing him to take the assistance of a temporary bank man for stitching the currency. But he refused to acknowledge the order by putting his signature. He committed mistakes in writing the transfer scroll. On 30-10-1995 he was allotted the work of despatch section and in preparing D.D. paid summary he committed mistakes. An officer of the bank pointed out the mistakes and asked him to correct them, but he did not follow the instructions and again wrote wrong figures. The intention of the workman was to put the officers of the bank in constant stress and strain. The enquiry was conducted in accordance with principles of natural justice and rules of procedure. The workman was defended by union Vice President. The workman was heard regarding findings and punishment by the Disciplinary Authority. There is no attempt on the part of the management in victimising the workman. The Enquiry Officer, Disciplinary Authority and the Appellate Authority have considered the entire evidence and documents before entering into their conclusions regarding charges. The workman was given sufficient opportunity to defend. He had produced 35 documents, examined two witnesses and cross examined management witnesses. There is no reason to interfere either with the findings or punishment.

5. In the light of the above contentions the following points arise for consideration :

1. Is the enquiry valid?

2. Are the findings sustainable?

The evidence consists of Ext. M 1 Enquiry File alone.

6. Point No. 1 :— Though a contention is raised in the claim statement that the enquiry is vitiated for violation of the principles of natural justice, it was not pursued at the time of hearing and hence I don't propose to record a finding regarding the issue of validity of enquiry.

7. Point No. 2 :—The workman was a Clerk of Mavelikkara Branch. He was in the cash section at the relevant time. Nine charges were levelled against him. Out of them the Enquiry Officer found him guilty of charges 2, 4, 5, 6, 7 and 8 and not guilty of charges 1, 3 and 9. It is enough to deal with the charges which are found proved.

8. Charge No.2 is that amounts sought to be withdrawn from the accounts of staff and a loan amount to an employee of the bank were not paid on time. Ext. E1 is the charge sheet. Exts. E 2 and E 3 are replies to the memo of charges. The worker has denied the charges except charge Nos. 7, 8 and 9 which according to him were bona fide mistakes. A security guard-cum-bank man of the Branch Sri. Bhaskaran had availed a gold loan of Rs. 1,500/- which was sanctioned and was to be paid on 04-10-1995. Another employee of the bank Sri. K. Sasikuttan had sought withdrawal of Rs. 290/- from his SB Account. Smt. Lathamma Cherian, an officer of the bank wanted to withdraw an amount of Rs. 700/- from her SB account. For the purpose of postage and stamp Rs. 350/- had to be disbursed. Towards office expense Rs. 84.75 had to be paid to M/s. Prathibha Cool Bar. The allegation is that these payments were delayed by the workman. The amounts due to Smt. Lathamma Cherian and M/s. Prathibha Cool Bar were paid only on the next day on 05-10-1995 and the remaining three payments were made only after the office hours on 04-10-1995 and after repeated requests by the staff. It is alleged that the workman was adamant and refused to pay money until cash was tallied. In Exts. E 2 and E 3 replies the workman says that he had paid to all the staff and to M/s. Prathibha Cool Bar on 04-10-1995 itself, though some payments were made after 6 p.m. But the evidence on record is otherwise. The two payments to Smt. Lathamma Cherian and M/s. Prathibha Cool Bar were made only on the next day on 05-10-1995. Ext. ME-13 is a complaint of Smt. Lathamma Cherian given to the Manager complaining about non-payment of money on the same day of withdrawal. MW2 is Smt. Lathamma Cherian. She has given evidence in support of her complaint. The complaint is no doubt written in the handwriting of Sr. Manager MW1. It is, therefore, alleged by the union that Sr. Manager was trying to victimise the workman by trying to get complaints from staff. But MW2 admits that though the complaint was written in the handwriting of Sr. Manager it was signed by her and the contents are true. Ext. ME1 is the report of Sr. Manager to the Personnel Department of the bank reporting

about the refusal of the workman to pay amounts due to staff on time. MW 1 has also given evidence in tune with the evidence of MW2. Rs. 84.75 was to be paid to M/s. Prathibha Cool Bar on 04-10-1995. The amount was to be received by Sri. Manoj of the cool bar. Ext. ME-14 is a complaint of Sri. Manoj that he did not receive money on 04-10-1995. Ext. ME-15 is a letter written by one Sri. Raveendran Nair of M/s. Prathibha Cool Bar stating that the money was not received on 04-10-1995 though the bill was passed by the bank for payment. MW1 has stated that on 04-10-1995 even at 7 p.m. the cash was not tallied. There was a difference of Rs. 790/- and he had enquired with the workman whether payments to staff were made. As per instruction of the bank if excess amount is found while tallying the cash it should be credited to 'account payable account'. The cash was closed at 8.35 p.m. on 04-10-1995. The workman did not report to the Manager or Sr. Manager about the excess amount. Had the payment due to Smt. Lathamma Cherian and M/s. Prathibha Cool Bar were made on 04-10-1995 itself there would not have been excess of Rs. 790/-. Though on the defence side a temporary bank man of the relevant time (DW1) was examined to support the case of the workman, the Enquiry Officer did not believe him as the incident had happened 11 months back and the witness had no special reason to remember whether cash was paid by the workman to Smt. Lathamma Cherian on 04-10-1995 itself. In addition DW1 had not seen Smt. Lathamma Cherian receiving the cash from the workman on 04-10-1995. The union relied on Ext. DE-35. It is a letter written on a plain paper by Sri. Manoj of M/s. Prathibha Cool Bar. The contents of the letter is that he had received cash of Rs. 84.75 on 04-10-1995 itself, but after 5 p.m. But the Sr. Manager had got a blank paper signed by Sri. Manoj saying that since his payment was made after the office hours (5 p.m.) it will be accounted only on the next day, i.e., 05-10-1995. In addition he disowns the statement in Ext. ME-14 complaint. But it is to be noted that Ext. DE-35 is written on a plain paper and addressed to none. Sri. Manoj is not examined on the defence side. Even if Ext. ME-14 is discarded Ext. ME-15 letter from Raveendran Nair of M/s. Prathibha Cool Bar says that they did not receive the payment on 04-10-1995. In the light of this evidence both documentary and oral, the Enquiry Officer found that payments to Smt. Lathamma Cherian (MW2) and M/s. Prathibha Cool Bar were made only on the next day. At the same time the workman neither remitted the excess amount of Rs. 790/- in the 'account payable account' as per memo of instructions of the bank nor reported to the Manager or Senior Manager. The remaining payments were made on the same day, but late in the day and after repeated requests by the staff. Smt. Lathamma Cherian had to take her child to the hospital in the evening and for that purpose she had sought withdrawal of Rs. 700/- from her S.B. account. She did not wait after 5 p.m. as she had to go to hospital. These circumstances prompted the Enquiry Officer to find that the workman is guilty of charge No. 2.

9. The 4th charge is that the workman did not attend the work of P&L Subsidiary writing and P&L Ledger Postings from 04-10-1995 onwards even after direction by MW 1. At last the work had to be entrusted to another staff Smt. Maya Nair. Ext. ME-25 is office order of work allotment w.e.f. 01-10-1995. The workman was put in charge of cash section which includes work of P&L subsidiary writing and P&L ledger postings. Ext. ME-16 is a report sent by MW1 to P & IR Department about the failure of the workman to carry out the work allotted. The work entrusted to Smt. Maya Nair and completed by her was also reported by MW1 to P&IR department by Ext. ME-22 report. MW1 the Sr. Manager, MW2 Smt. Lathamma Cherian (an officer) and MW3 Branch Manager have supported this case of the management and they have identified the handwriting of Smt. Maya Nair in the P&L ledger. The finding of the Enquiry Officer regarding charge No.4 is based on the above evidence and requires no interference.

10. Charge Nos. 5 and 6 are that currency to the tune of over Rs. 20 lakhs was kept unstitched due to the adamant attitude of the workman and he refused to sign the office order issued to him asking him to take the help of a temporary bankman to carry out the work. According to the management a temporary bank man's help was provided. But the workman did not avail it. The currency remained unstitched from 09-10-1995 onwards. On 10-10-1995 Sr. Manager asked the workman to take the service of the permanent bank man to stitch the currency. But for the reason that the workman was not free he did not permit the permanent bank man to stitch the currency. Thus by 13-10-1995 unstitched currency accumulated to more than Rs. 20 lakhs. Exts. ME-16 and 20 are reports sent by MW1 to P&IR department. MW1 to 3 support the case of the management. Ext. ME-21 is the office order issued to the workman regarding currency stitching. It is noted at the foot of the order that the workman had refused to sign the office order saying that he will sign the order only after a discussion in the afternoon. In Ext. E2 reply to the memo of charges the workman admits that it is risky to permit a temporary bank man to stitch the currency. Therefore, he had asked the Manager to issue an office order if the workman were to take the help of a temporary bank man to stitch the currency. The workman had neither carried out the work nor was prepared to obey the direction of his superior. Thus the charges stand proved and requires no reconsideration.

11. Charge No.7 is that the workman had deliberately committed mistakes while writing the transfer scroll of 24-10-1995. Ext. ME-22 is a report sent by Sr. Manager regarding the misconduct of the workman to the head office. Ext. ME-26 is original transfer scroll of 24-10-1995. Ext. ME-23 is corresponding offset credit slip. The explanation of the workman in his reply to the memo of charges is that they were bonafide mistakes. But according to MW 1 they were deliberate mistakes committed to create hardship to

the officers of the bank. When the workman was examined on the defence side he gave a casual answer regarding the mistakes. Considering the nature and circumstances under which the mistakes were committed and in view of the oral testimony of MW 1, the Sr. Manager it was found that they were done deliberately by the workman. I am not persuaded by any contra evidence to differ from the findings of the Enquiry Officer.

12. Charge No. 8 is that on 30-10-1995 while he was in the despatch section he had committed mistake in D.D. paid summary despite specific direction by officer, Smt. Lathamma Cherian to correct it. Ext. ME-24 is D.D. paid summary of 30-10-1995. A figure written by him was wrong and the mistake was pointed out by MW2, Smt. Lathamma Cherian. Yet he did not correct it, but wrote another wrong figure. At last MW2 herself had to correct it so that the day book could be tallied. MW1 and 2 support the charge. In Ext. E2 reply to the memo of charges the workman says that it was a bonafide mistake. Even if it was a bonafide mistake he should have complied with the direction of an officer, Smt. Lathamma Cherian and corrected the mistake. Hence, the Enquiry Officer has found him guilty of the charge and the finding is only to be upheld.

13. The Enquiry Officer had meticulously analysed the evidence on record and came to the conclusions. The findings are recorded based on evidence and they can neither be said to be perverse nor based on no materials.

14. The contention of the union is that on 04-10-1995 there were unusual transactions in the cash section. There were lot of remittances and payments on that day. Hence, the workman was not able to make payments to the staff promptly. However, he paid all the amounts on the same day. This is not true as per record.

15. The next contention of the union is that some unauthorised and imaginary cash transactions were going on at Branch Mavelikkara involving M/s. Jemini Traders and Branch Mamkamkuzhy and when the workman refused to be a party to such transactions the Sr. Manager and other officials came up with false allegations to implicate him. But the answer of the management is that if at all such transactions were done it was with the approval of higher authorities and unless Mamkamkuzhy branch had consented to such transactions Mavelikkara branch could not have done it unilaterally. This contention of the workman was rejected by the Enquiry Officer on the ground that he failed to prove the allegation and consequent victimisation.

16. None of the contentions of the union are sustainable. There is sufficient evidence on record to prove the charges. Any interference regarding the findings of Enquiry Officer is uncalled for in the circumstances.

In the result an award is passed finding that the action of the management in imposing the punishment of stoppage

of increment for a period of one year with cumulative effect is legal and justified and the workman is not entitled for any relief.

The award will come into force one month after its publication in the official gazette.

Dictated to the Personal Assistant, transcribed and, typed by her, corrected and passed by me on this the 8th day of January, 2009.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the Union — Nil

Witness for the Management — Nil

Exhibit for the Union — Nil

Exhibit for the Management

MI — Enquiry file.

नई दिल्ली, 29 जनवरी, 2009

का.आ 444.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 161/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल.-12011/88/2002-आई आर(बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 444.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 161/2002) of the Central Government Industrial Tribunal-Cum-Labour Court, Lucknow, as shown in the Annexure, in the Industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 29-1-2009.

[No. L-12011/88/2002-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Present : N. K. Purohit

I. D. No. 161/2002

(Ref. No. L-12011/88/2002 IR (B-II) dt. 9-9-2002

BETWEEN

The General Secretary

UP Bank Workers Organization

3/13, Mathura Nagar, Aligarh (U.P.) 202001

(In the Matter of Makkhan Singh)

AND

The Regional Manager

Punjab National Bank

Regional Office, Teachers Colony, Bulandshahr (U.P.)

AWARD

Dated : 7-1-2009

1. By Order No. L-12011/88/2002 IR(B-II) dated 09-09-2002 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the General Secretary, UP Bank Workers Organization, 3/13 Mathura Nagar, Aligarh and the Regional Manager, Punjab National Bank, Bulandshahr for adjudication.

The reference under adjudication is as follow :—

“Whether the action of Panjab National Bank in Removing from service with Superannuation benefits and without disqualification from future re-employment of Sri Makkhan Singh S/o Sri Hoti Lal w.e.f. 31-3-2000 is just, fair and reasonable? If not, to what relief the workman is he entitled to?”

2. Admitted facts of the parties are that Sh. Makkhan Singh, Teller was placed under suspension by Branch Office: Pahasu vide order dt. 30-6-98. Subsequently, Sh. Makkhan Singh was served with the charge sheet dt. 8-9-98 alleging that he had committed acts of gross misconduct within the meaning of Para 19.5 (d), 19.5 (j), 19.5 (a) and 19.5 (c) of Bipartite Settlement. The Enquiry Officer conducted the enquiry and thereafter submitted his report on the basis of which the workman has been removed from service with superannuation benefits & without disqualification from future employment. The charge sheet is as follows :

Articles of charges against Sh. Makkhan Singh, Teller (Under suspension) Branch Office: Pahasu.

Article-I

You caused willful damage to the customer Sh. Tribhuvan Nath Sharma by defrauding Rs. 14000/- (Rs. Fourteen thousand only) from his SF account No. 1011 in 2 instances which is gross misconduct under para 19.5(d) of Bipartite Settlement as amended up to date. And you also acted prejudicial to the interest of the bank involving the bank in serious loss in terms of para 19.5(j).

Article-II

You engaged yourself in Dairy business outside the scope of your duty without the prior written permission of

the bank which is gross misconduct under para 19.5 (a) of Bipartite Settlement as amended up to date.

Article—III

You disobeyed the lawful and reasonable order of the management by not attending the duties at Branch Office : Khanpur which is gross misconduct under para 19.5 (e) of Bipartite Settlement as amended up to date.

Statement of imputation of charges against Sh. Makkhan Singh, Teller (under suspension) Branch Office : Pahasu.

Article—I

Charge—I

'A' : While working as Teller, you withdrew Rs. 7000/- (Rupees seven thousand only) from SF account No. 1011 (Name of the account holder Sh. Tribhuvan Nath Sharma) on 21-1-98 fraudulently by making forged signatures on the withdrawal slips.

'B' Again on 7-2-98 you withdrew Rs. 7000/- (Rupees Seven thousand only) from the same account mentioned above fraudulently by making forged signatures on the withdrawal slip, thereby defrauded the valuable customer of the Bank and tarnished the image of the bank while working at Branch Office : Pahasu.

Charge—II

You got 30 days-leave encashed on 11-7-1997 and took advance of Rs. 12000/- on 14-7-1997 from suspense

account for purchasing tickets for journey to be undertaken w.e.f. 26-7-1997. Neither you purchased any ticket nor went for LFC. In fact you utilized the proceeds of leave encashment for realization of cheque for Rs.15000/- (Ch. No. RNR 126011 dt. 5-6-1997) issued by you in favour of Sh. Madan Gopal. The suspense advance and encashment amount was adjusted by you on 29-9-1997 and 24-10-1997. You again took an advance of Rs.12500/- from suspense and got encashment of 30 days leave on 1-11-1997, but again you did not proceed on LFC and suspense entry was adjusted by you on 14-2-1998. The amount of leave encashment has not been deposited by you so far. Thus you misutilized the facility of LFC and utilized the bank's fund for some other purpose deliberately for self pecuniary gains and to cause serious loss to the Bank.

Charge -III

You were assigned duties to assist in obtaining BC letters, recovery of dues in irregular accounts and to do all other loan duties allotted you by BM in addition to the duties of Teller. But you did not perform your duties with full devotion and diligence particularly in the area of recovery of Bank dues in irregular accounts. In all the following accounts, you had a close proximity with the borrowers as they are your close relatives and friends. You did not put in your sincere and concerted efforts in the interest of the Bank for recovery of dues thereby causing pecuniary loss to the Bank :

SN	Name of Borrower	Nature	Amount of loan	DOA	Relation	Present status
1	2	3	4	5	6	7
01	Rajveer Singh	T/L	5000	14-10-88	Brother	Written off
02	-do-	T/L	10,000	07-08-91	-do-	-do-
03	Jaimanti Devi	T/L	9,000	24-11-94	Mother	O/s Rs. 3920, Rs. 2742/-
04	Ramesh Chand	T/L	10000	15-02-88	Cousin	Written off
05	Mohar Singh	T/L	5000	17-11-89	Uncle	-do-
06	Mohd. Aslam	T/L	10000	01-07-74	Friend	O/s Rs. 11189/ + RI 339 (a/c Guaranteed by you)

Article—II

Charge—I

You raised a loan of Rs. 14000/- from UP Sahkari Grannin Vikas Bank Ltd., Pahasu, Distt. Bulandshahr on 29-3-93 (in D 3/09) for the buffaloes to run dairy business without written permission from the Bank thereby engaging yourself in the business of dairy.

Article—III

Charge

3. You were advised to report for duty at Branch Office: Khanpur vide our order dated 18-2-98 but you have not joined Branch Office : Khanpur despite reminders dated 19-3-98, 23-3-98, 2-4-98, 25-4-98, 1-5-98, 16-5-98 and 5-6-98 which is willful disobedience of lawful and reasonable order of the Management.

4. Your above acts are gross misconduct under para 19.5 (d), 19.5 (j), 19.5 (a) and 19.5 (e) of Bipartite Settlement (as amended upto date). You are therefore advised to submit your written statement of defence within 7 days (seven days) from the receipt of this charge sheet failing which it will be presumed that you have nothing to say in your defence and ex parte decision will be taken against you and punishment in terms of para 19.6 of Bipartite Settlement (as amended upto date) will be imposed upon you.

5. The union in his statement of claim has questioned the finding of the domestic enquiry on the following grounds :

1. That during the enquiry proceedings, the report of hand writing expert was produced but neither the expert was examined to prove his report nor worker was given an opportunity to cross-examine him and the Enquiry Officer has in his report, relied upon the said expert report.
2. That the account holder Sh. Tribhuvan Nath Sharma never complained regarding alleged forgery by the workman. Moreover, during the course of enquiry Sh. Tribhuvan Nath Sharma appeared before the Enquiry Officer and admitted that the alleged amount of Rs. 14,000/- has been withdrawn by him and he also submitted an affidavit during the enquiry proceedings. In spite of above facts the Enquiry Officer did not find necessary to examine the expert nor he asked the worker to file his report in rebuttal.
3. That the workman took an advance of Rs. 14,000/- from Co-operative Gramin Development Bank with due permission of the Bank, but during the course of enquiry the bank has not produced any evidence that the worker carried out dairy business. In fact the worker took loan for purchasing 2 buffalos on 29-3-93 but the bank has leveled the charge of running dairy after 5-1/2 years.
4. That the then Manager transfer the workman from Pahasu branch to Kanpur branch vide order dt. 18-2-98, whereas he was not empowered to do so. Moreover there was no post of Teller in that branch. Later on the said order was cancelled on 24-6-98 but the then Manager made it a prestige point & due to ill will suspended the workman and charge sheeted him on fabulous and baseless grounds.
5. That no documents were supplied to him alongwith charge sheet in spite of request dated 15-9-98 and 7-11-98.
6. That Enquiry Officer did not observe the principals of natural justice & without applying his mind the Enquiry Officer found the worker guilty against the facts on record.

6. The opposite party has submitted that all the documents which were filed by the Presenting Officer during the enquiry were duly proved and the copies of the same were also made available to the delinquent. There is no requirement to provide any document alongwith charge sheet. It is also submitted that strict rules of evidence are not applicable to the departmental enquiry. The Enquiry Officer has submitted his findings in this report dated 22-11-99 after taking into consideration the material produced during the course of enquiry proceedings. The Enquiry Officer has rejected the deposition made by Sh. Tribhuvan Nath Sharma by giving valid reasons and the Enquiry Officer has relied upon all the material evidence produced before him while giving his findings in the report dated 22-11-99. It is stated that enquiry was conducted in accordance with the provision of the Bipartite Settlement and no known principle of natural justice has been violated, as alleged or otherwise. It has been denied that departmental enquiry was bad in any manner whatsoever.

7. In rejoinder, the union has reiterated its earlier averments made in their statement of claim. Since the departmental proceedings and findings were challenged by the union on behalf of the workman following two preliminary issues were framed on 13-11-03;

1. क्या जांच अधिकारी द्वारा न्याय के नैसर्गिक सिद्धांतों का पालन जांच कार्यवाही के दौरान किया गया।
2. क्या जांच अधिकारी का निष्कर्ष दुरुग्रह पूर्ण था।

8. In respect of above preliminary issues the union filed affidavit of the workman (A1-50) & in rebuttal the opposite party filed affidavit of Sri O.P. Sharma, Enquiry Officer (A2-53).

9. On the basis of evidence adduced by both the sides and material on record, while deciding the above preliminary issues in favour of the workman the following order was passed on 19-5-05 by the then Learned Presiding Officer.

"Departmental enquiry held by the management of the Bank is improper and in violation of principles of natural justice and therefore the same findings is set aside. The opposite party is directed to produce list of witness and evidence in form of affidavit by 28-7-05."

10. In pursuant to the above order management examined S/Sh. R.K. Tandon (A-74), O.P. Chawla (A-75) and A. Kashyap (A-76) as management witness to prove the charges leveled against the workman. In rebuttal the union has examined Sh. Makhan Singh workman and Sh. T.N. Sharma as witness.

11. Heard the arguments of both the sides and perused the record.

12. Before going into the merit of the case, it is to be considered what constitute material on record under Section 11-A of the I.D. Act, to prove charges levelled against the workman.

13. The Learned representative of the management has argued that the charges stands proved by the material on record including domestic enquiry proceedings, the evidence recorded by the Enquiry Officer and the fresh evidence led by the management, whereas learned representative of the workman has contended that only fresh evidence adduced by the management can be considered to see whether charges levelled against the workman are proved or not. He has relied on 1999 SCC (L&S) 302 Neeta Kaplish vs. Presiding Officer Labour Court & another.

14. The proviso of Section 11-A envisages that in any proceeding under this section the Tribunal shall rely on the material on record and shall not take any fresh evidence in relation to the matter. In Neeta Kaplish case Hon'ble Apex court has held :

"It is fallacious argument that it was open to management to rely upon domestic enquiry proceedings, including the evidence recorded by the Enquiry Officer, and that management was under no obligation to lead further evidence, particularly as the management was of the view that the charges against appellant stood proved on the basis of evidence lead before the Enquiry Officer. It is also not correct to say enquiry proceedings constituted "material on record" under Section 11-A and they could not be ignored.

Records pertaining domestic enquiry would not constitute "fresh evidence" as those proceedings have already been found by the Labour Court to be defective. Such record would also not constitute "material on record" within the meaning of Section 11-A, as the enquiry proceedings on being found bad, have to be ignored altogether. The proceedings of domestic enquiry could be, and, were, in fact, relied upon by the management for a limited purpose of showing at the preliminary stage that the action taken against the appellant was just and proper and that full opportunity of hearing was given to her in consonance with the principles of natural justice. This contention has not been accepted by the Labour Court and the enquiry has been held to be bad. In view of nature of objections raised by the appellant, the record of enquiry conducted by the management ceased to be "material on record" within the meaning of Section 11-A and the only course open to the management was to justify its action by leading fresh evidence before Labour Court. If such evidence has not been led, the management has to suffer the consequences."

15. In view of the above legal position, the proceedings of the domestic enquiry including evidence recorded by the Enquiry Officer is to be ignored. To prove charges levelled against the workman and justify action taken against the workman the management can rely on the fresh evidence only i.e. evidence adduced subsequent to the order dt. 19-5-05 wherein the proceeding of the domestic enquiry has been declared vitiated due to violation of principal of natural justice.

16. It is pertinent to mention that the management has examined only three witness out of them evidence of Sh. Ashok Kashyap, Handwriting expert and Sh. R.K.Tandon is pertaining to charge (i) under Art. 1 & evidence of Sh. O.P. Chawla is with regard to charge III-Art. under I. the management has not adduced any fresh evidence regarding charges under Art. 2, Art. 3 and charges II under Art. I. Thus, there is no material on record to establish above charges under Art. I charge (ii). Charges under Art. 2 and Art. 3 and the same stand not proved for want of any fresh evidence.

17. Now it is to be seen whether charge I under Art.I is proved on the basis of fresh evidence adduced by the management.

18. The allegation in article I charge 1 in brief was that the workman Makhan Singh while working as Teller on 21-1-98, fraudulently withdrew Rs.7000 from SF account of Sri T.N. Sharma and again on 7-2-98 fraudulently withdrew Rs.7000 from the same account by making forged signature on the withdrawal forms. In this respect Sh. R.K. Tandon has stated that account holder Sh. T.N. Sharma came to the branch and in his presence he made oral complaint to the Manager that there had been forged withdrawal of Rs.14000 from his SF account by 2 fictitious withdrawal forms of Rs. 7000 each, but in cross examination he has admitted that no written complaint was made by Sh. T.N. Sharma account holder. He has stated that Sh. T.N. Sharma came to the branch sometime in the month of March or April 1998 and he has also stated that he was not examined as witness in the domestic enquiry. The second witness examined by the bank is Sh. Ashok Kashyap hand writing expert who has deposed that the signature of the account holder Sh. T.N. Sharma on disputed withdrawal forms dt. 7-2-98 and 21-1-98 on the face as well as on the reverse are forged and the signature of the account holder Sh. T.N. Sharma on the disputed withdrawal form show a strong prima facie having been forged by Sh. Makhan Singh ex Teller. Sh. Ashok Kashyap has confirmed and corroborated his report dt. 4-9-98. and 5-9-99 on the above matter.

19. In rebuttal, of the above evidence, the workman has examined Sh. T.N. Sharma the concerned account holder who has deposed that he did not make any complaint orally or otherwise to the Branch Manager regarding any fraudulent payment from his account. He has further stated

that he himself signed disputed withdrawal forms and there was some difference in his signatures on these forms as his right arm was swollen due to infection and he had fever at that time.

20. It is urged by the learned representative of the bank that statement of Sh. T.N. Sharma should not be relied upon because it is unlikely that a person may remember such a old signature on withdrawal form with accuracy secondly the time gap between two withdrawal was 17 days which renders it unlikely that infection and fever continued for so long period. He has further urged that regarding his illness no documentary evidence has been produced and admission of difference in signatures is *defacto* an argument in favour of the allegation that the concerned signatures were not made by the account holder.

21. In rebuttal, the learned representative of the workman has contended that when the account holder Sri T.N. Sharma has admitted that the amount of Rs. 14000 was withdrawn by him by alleged disputed withdrawal form and he has also admitted his signatures on above withdrawal form and then how signatures could be forged. The report of the hand writing expert is relevant only when the signatures are disputed. He has further contended that Sh. T.N. Sharma never complaint regarding his forged signatures. Sh. O.P. Sharma who conducted the enquiry has also stated in his cross examination that Sh. T.N. Sharma had admitted in the enquiry that the amount was withdrawn by him by the disputed withdrawal forms. He has further admitted that account holder Sh. T.N. Sharma did not submit any written complaint in the above circumstances the bank has failed to prove article I charge I. He has placed reliance on 1979 Criminal Law Journal 889 in support of his contentions.

22. I have given my thoughtful consideration on the argument advanced and case law submitted by both the sides.

23. In the case law (2003) 5 SCC 424 cited by the learned representative of the management. Hon'ble Apex court has observed that in disciplinary proceedings and technical evidence and the doctrine of proof beyond doubt have no application. It is also observed that the evidence of hand writing expert need not invariably be corroborated and it is permissible for the court to compare the admitted writing with disputed writing and come to its own independent conclusion.

24. Above legal position is well settled, but in present case, the management has not even produced original documents alleged to be fictitious, to enable the Tribunal to compare the same with admitted signature for deriving any independent conclusion. Moreover, the account holder Sh. T.N. Sharma has testified on oath that he himself withdrew the disputed amount from his account and alleged fictitious withdrawal forms were signed by him. He has further stated that he had never made any

complaint orally or in writing to the Manager concerned regarding alleged fictitious withdrawal from his account. The management witness Sh. R.K. Tandon has admitted in his cross-examination that no written complaint was made by the Account holder Sh. T.N. Sharma for alleged forged withdrawal forms he has deposed that account holder Sh. T.N. Sharma came to the Tribunal sometime in the month of March or April 1998 and made oral complaint in his presence to the Manager that there had been withdrawal of Rs. 14000/- from his account by two fictitious withdrawal forms, but the then Manager Sh. O.P. Sharma to whom such complaint is said to be made, has not been examined by the management. Even in his earlier deposition made on 16-7-04, in support of the management case. On the preliminary issues, he has not stated anything about alleged oral complaint to him by the account holder Sh. T.N. Sharma.

25. In view of the above facts, when there is direct evidence of the account holder that alleged fictitious withdrawal forms bear his signatures, opinion of the hand writing expert that *prima facie* disputed signatures seems to be having been written by Sh. Makkhan Singh cannot be relied upon. This view also finds support from the case law AIR 67 SC 1326 Fakhruddin vs. State of M.P. submitted by the learned representative of the workman wherein Hon'ble Apex court has held :

"Though there are various recognized modes to proving signature or hand writing expert but the direct evidence is preferable, direct evidence means the admission of the writer or the evidence of witness in whose presence the documents was written if this direct evidence is available then other evidence is not necessary. The report of hand writing expert is only a *opine evidence*".

26. In such circumstances, the statement of account holder T.N. Sharma that he did not make any complaint to the manager regarding alleged fictitious withdrawal cannot be disbelieved. He has admitted his signature on the disputed documents. His evidence cannot be discarded merely on the hypothetical grounds pointed out by the learned representative of the management that he had deposed in favour of the workman or under influence either under pressure of the workman and it is unlikely that a person may remember such a old instance of signing withdrawal forms with accuracy and in view of the time gap of 17 days between the two withdrawals, it is unlikely that infection and fever remained for such a long period.

27. The management has solely relied on the opinion of hand writing expert to prove the alleged charge (i) Article I, But, when the account holder himself has admitted his signature on the disputed withdrawal form and he has admitted that amount was withdrawn by him, the uncorroborated opinion of the hand writing expert cannot be relied upon. This view also finds support from 1979

Cr.L.J. p. 889 cited by the learned representative of the workman. In the above case law the evidence of an accused in a criminal case was based merely on alleged forged entry which appears that accused misappropriated certain sum. The evidence of the expert was disbelieved by Hon'ble Apex Court in appeal against the order of conviction. In above case the Hon'ble Apex Court has observed :

"The position is that the entire conviction rests on the uncorroborated testimony of the Expert P.W. Acharya. The High Court has clearly found that the expert had opined in case of even those person who admitted to have signed in token of the payment that the signatures of these witnesses were forge. This is a most extraordinary situation because when the witnesses testified on oath that they had signed the Register and the signatures shown to them were their own how could the expert say that the signatures were forged. At any rate the expert's opinion does not appear to be reliable for this reason."

28. Although, evidence of hand writing expert need not invariably be corroborated but in instant case, facts are peculiar. The Account holder from whose account amount of Rs.14000/- has been alleged to be withdrawn by the workman by forging his signature, has himself admitted that alleged fictitious withdrawal form bear his signature and amount was withdrawn by him. The hand writing expert has not given any opinion regarding dissimilarity of signatures of the Account holder after comparing his admitted signature with disputed signature. He has only compared admitted signature of the workman with disputed signatures and opined that prima facie disputed signatures seems to be in writing of the workman.

29. In above facts and circumstances, in the light of observation of the Hon'ble Apex court in the aforesaid case, uncorroborated opinion of the hand writing expert cannot be relied upon. There is no other documentary or oral evidence on the record to establish that the workman has forged the disputed documents. Hence, charge (II) under Article I stands not proved.

30. The allegation under charge (III) of Article I are that the workman did not put his sincere concerted efforts in the interest of the bank for recovery of dues from Sh. Rajveer Singh Jaimanti Devi, Ramesh Chand, Mohar Singh and Mohd Aslam who were his closed relatives and friends and thereby he acted prejudicial to the bank involving the bank loss in terms of para 19.5 (j) of the Bipartite Settlement. It is pertinent to mention that the charge (II) under Article I was not found to be proved by the Enquiry Officer in his report but the management in order prove above charge has examined Sh. O.P. Chawla. He has stated in his statement on oath that the workman Sh. Makkhan Singh, Teller was

working in Branch Office Pahasu Distt. Bulandshar during his tenure as Manager from 28-7-95 to 10-7-97. His statement dt. 24-2-98 has been made part of his affidavit as Annexure 'A' wherein he has given his statement in form of reply to queries put to him. In reply to the query whether there was any role of Sh. Makkhan Singh in issuing recovery certificated filed T/L ledgers where as no recovery certificate had been actually filed till 9-7-97 and R/C kept in abeyance due to workman Sh. Makkhan Singh, he has given reply as under;

"I do not know about the role of Sh. Makkhan Singh till 28-7-95, my joining at the branch, but after that all notings as regards R/C filed were being made by Loans department. Regarding previous noting i.e. of 20-9-92, I do not know. Since the borrower's approached through Sh. Makkhan Singh for not issuing of R/Cs and that they will adjust/regularize the a/cs, R/Cs were earlier not issued but later on when the a/cs were not adjusted, the RCs were finally issued on 9-7-97."

31. In cross-examination on the affidavit, he was unable to give any particulars of the loan mention in Annexure 'A'. He has further stated in his cross-examination that Sh. Rajveer Singh, Jaimanti Devi, Ramesh Chand, Mohar Singh and Mohd. Aslam made a request to him for not issuing recovery certificate. Sh. O.P. Chawla has not alleged in his statement that noting pertaining to recovery certificate were waived and letter obliterated by the workman Sh. Makkhan Singh. The management has failed to establish the charge (III) under Article I leveled against the workman on the basis of the above witness. Hence the charge (II) under Article I also stands not proved.

32. In view of the above findings on the charges leveled against the workman, all the charges under Article I, Article 2 and Article 3 stand not proved and the workman is entitled for exoneration from the charges leveled against him. The action of the opposite party in removing the workman from service with superannuation benefits and without disqualification from future re-employment w.e.f. 31-2-2000 vide impugned order is not just fair and reasonable and workman is entitled for reinstatement. As regards back wages no precise formula has been laid down. It depends upon the facts and circumstances of the case keeping in view the principle of justice, equity and good conscience. In present case, the workman was removed from service in the year 2000 without disqualification from future re-employment. It is well settled principle that burden of proof having regard to the principle analogous to Section 106 of the Evidence Act, that he was not gainfully employed was on the workman. But the workman has not discharged his burden that he had not been gainfully employed after termination of his service. Therefore keeping in view all the

facts & circumstances of this case, the ends of justice will be served, if the workman is reinstated with 50% back wages & with continuity in service from the date of his removal.

33. Accordingly, the reference is adjudicated in favour of the workman to the effect that removal from service of Sh. Makkhan Singh workman was neither in order nor justified. He is entitled to reinstatement with 50% back wages, with continuity and with all consequential service benefits.

34. Award as above.

LUCKNOW

N. K. PUROHIT, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ 445.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, इरनाकुलम के पंचाट (संदर्भ संख्या 283/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल.-12012/176/1997-आई आर(बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 445.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 283/2006) of the Central Government Industrial Tribunal-Cum-Labour Court, Ernakulam, as shown in the Annexure, in the Industrial dispute between the management of the Regional Office Central Bank of India, Regional and their workmen, received by the Central Government on 29-1-2009.

[No. L-12012/176/1997-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri.P.L.Norbert, B.A., LL.B., Presiding Officer
(Friday the 7th day of November,
2008/16th Karthika 1930)

I.D. 283/2006

(I. D. 03/1998 of Labour Court, Ernakulam)

Union : The President,
Central Bank of India Staff Union,
(Kerala), 41/1757,
Paramara Shopping Centre,
Kochi-682 001.

By Adv. Sri. H.B. Shenoy

Management : The Regional Officer,
Central Bank of India,
Regional Office, Pallimukhu,
Kochi-682 016.

By Adv. V.V. Sidharthan

This case coming up for hearing on 03-11-2008, this Tribunal-cum-Labour Court on 07-11-2008 passed the following:

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :—

"Whether the action of the management of Central Bank of India in dismissing the services of Sh. M. M. Nandakumar, w.e.f. 08-12-1995 is legal and justified? If not, to what relief the said workman is entitled?"

2. The facts in a nutshell are as follows :— Sri. M. M. Nandakumar was a Teller of Central Bank of India, Always branch. He was served with a charge sheet on the allegation that he had misappropriated money of customers, borrowed money from customers in excess of his means to repay, issued cheques without maintaining sufficient balance in his account, allowed over draft to customers at concessional rate of interest without authorisation, misused overdraft facility given to him and abused a sub-staff of the bank in filthy language. An enquiry was conducted on the said charges and he was found guilty of charges 3, 9 and 10 and partly guilty of charges 2 and 5 and not guilty of charges 1, 4, 6, 7 and 8. He was given a copy of the report of Enquiry along with the dissenting note of the disciplinary authority calling for his representation. After receipt of the representation, the disciplinary authority differed with the findings of Enquiry Officer on certain charges. The disciplinary authority found charges 1, 2, 4, 6, 7, 9 and 10 fully proved and imposed punishment of dismissal in respect of charges 1 to 3 and discharge in respect of charge No. 10 and stoppage of one increment with cumulative effect in respect of charge No. 9 and warning in respect of charge Nos. 4, 6 and 7.

3. The union which has espoused the cause of the workman has challenged the findings as well as the punishment. The union questioned the validity of enquiry as a preliminary issue. That aspect was heard and considered in a preliminary order passed on 20-10-2008 and found that the enquiry is valid. Hence those contentions pertaining to validity of enquiry are not reiterated. However according to the union the findings are recorded without properly assessing the evidence. The disciplinary authority deviated from the findings of Enquiry Officer on certain charges without properly analysing the evidence and without substantiating the findings with reasons. The workman was not given personal hearing before differing with the findings of Enquiry Officer. The mitigating circumstances of the workman were not taken

into consideration by the disciplinary authority while imposing the punishment. At any rate the punishment of dismissal is illegal and disproportionate. The workman is entitled to be reinstated with consequential benefits.

4. The management contends, apart from the procedural aspects of enquiry, that the Enquiry Officer on the basis of the materials on record and analyzing the evidence came to the conclusion that the workman is guilty of certain charges. The Disciplinary Authority informed the workman that he intended to differ with certain findings of Enquiry Officer and if the workman wanted to make any representation he could do so within 15 days of the receipt of the communication of the Disciplinary Authority and the enquiry report. After recording dissenting findings the workman was intimated regarding the findings and called for representation of the workman regarding the findings of Enquiry Officer as well as the Disciplinary Authority. After considering the representation of the workman and enquiry materials the Disciplinary Authority came to the conclusion that the workman was guilty of charges 1, 2, 4, 6, 7, 9 and 10. Thereafter the workman was heard regarding proposed punishment and then imposed the punishment. The workman filed an appeal. The appellate Authority concurred with the findings of the Disciplinary Authority. The workman then preferred a mercy petition before the Chairman and Managing Director of the bank. But it was dismissed. The punishment is in no way excessive. The misconduct committed by the workman are grave in nature. The workman is not entitled for any relief.

5. In the light of the above contentions the following points arise for consideration:

1. Are the findings of Enquiry Officer and the dissenting findings of Disciplinary Authority sustainable?

2. Is the punishment Proper?

The evidence consists of the oral testimony of MW1 and documentary evidence of Exts.M1 to M-70.

6. Point No.1 : At the very outset the learned counsel for the union submitted that the disciplinary authority is not justified in deviating from the findings of Enquiry Officer without giving cogent reasons and without hearing the workman. According to the learned counsel even if the entire materials on record are weighed, no serious misconduct can be made out. Hence there is no justification in imposing major penalty of dismissal. The learned counsel submitted that charges 1 and 2 together make just one misconduct and they cannot be split up and such procedure is against Clause 19.9 of First Bipartite Settlement. He submitted that the 3rd charge cannot stand as there is no complaint from the account holder and no evidence to substantiate the charge. According to him charge No.10 is not treated seriously even by the disciplinary authority and the punishment of discharge alone is imposed. Hence he would contend that the penalty of dismissal is illegal.

7. Charge No. 1 is that the workman had fraudulently withdrawn Rs.3,000 each on four occasions from the

account of Sri. O. K. Gopi by forging the customer's signature in withdrawal forms and misappropriating the money.

8. The 2nd charge is that the workman with an ulterior motive to suppress forgery of signature in withdrawal slips and misappropriation of money, omitted to record the four withdrawals in the pass book of the customer Sri. O.K.Gopi. These acts made mention in charges 1 and 2 are alleged to be acts prejudicial to the interest of the bank under Clause 19.5(j) of First Bipartite Settlement. The contention of the learned counsel for the union that charges 1 and 2 are to be clubbed together and cannot be split is not sound. One is forgery and misappropriation of money and the other charge is deliberate omission to record withdrawals in the pass book of the customer with a view to avoid the notice of the customer. Both acts are independent and distinct. One may not make sufficient entries in the books of account, yet may not misappropriate the money. In that case there is no misconduct of misappropriation. At the same time he commits the misconduct of suppressing real facts and defrauding the customer. It is an act affecting bank-customer relationship and is prejudicial to the interest of the bank. Clause 19.9 of the Bipartite Settlement refers only to imposition of punishment more than once in respect of the same charge. Since the charges 1 and 2 are separate and distinct, it is not in violation of Clause 19.9 of the Bipartite Settlement. Assuming that charges 1 and 2 are clubbed together even then the result of penalty cannot be different (being dismissal), if the finding is against the charge sheeted employee.

9. I will now come to the findings with regard to charges 1 and 2. Charge No.1 is that workman had forged the signature of customer Sri. O. K. Gopi in withdrawal forms and misappropriated Rs.12,000 at different intervals. The finding of the Enquiry Officer is that the workman is not guilty of charge No.1. But the Disciplinary Authority disagreed with him. The reasons that prompted the Enquiry Officer to hold that the workman is not guilty of charge No.1 is that the admitted signature of account holder Gopi themselves differ from his specimen signature and therefore there is no sanctity in saying that the signature in the disputed withdrawal slips (4 in number) are different from the specimen signature. According to the Enquiry Officer the admitted signatures are not uniform. They varied from document to document. Hence it cannot be conclusively said that the signatures in withdrawal slips (4 in number) were subscribed by the workman forging the signature of the customer. Ext.ME-52 is the specimen signature of the account holder. Ext.ME-47 to 50 are the four withdrawal slips. The signatures are no doubt entirely different from Ext. ME-52 specimen signature. The workman signs by writing his initial O.K. followed by the first letter of his name Gopi. These three letters are written in running hand with a line below and two dots underneath the line. It is important to note that a specimen signature is subscribed carefully by an account holder when he opens an account. But depending upon the number of transactions in the

account and the frequency of transactions sometimes instruments may be signed without due care and casually. Ext. ME-53 is the pass book of the account holder. Pages 1 to 21 contains, at the top left hand corner, his signature. On a simple comparison of the signatures in Exts. ME-52 and 53 with the signatures in the ME-47 to 50 anyone can say that the signature in Ext. ME-47 to 50 are entirely different from the signatures in Exts. ME-52 and 53. However the case of the union as well as the reasoning of the Enquiry Officer that the admitted signatures of the account holder in Exts. DE-3 to 14 and Ext. ME-4 do not tally with Ext. ME-52 specimen signature of the account holder is not correct. Slight variation is bound to be there in anyone's signature put at different periods. But the style of writing the signature in Exts. DE-3 to 14 is more or less similar to the specimen signature in Exts. ME-52. That is not the case with regard to the signatures in Exts. ME-47 to 50 (disputed signatures). The Enquiry Officer has not carefully compared the signatures in Exts. DE-3 to 14 with the specimen signature in Ext. ME-52. There was a complaint from the customer that there is shortage in his account and that he had not withdrawn Rs. 12,000/- on the alleged four dates. Ext. ME-53 pass book does not reflect the withdrawals on the alleged dates on 04-10-1993, 22-11-1993, 01-12-1993 and 17-12-1993. Ext. ME-45 is the complaint of the customer. Ext. ME-51 is the ledger copy of the account of Mr. Gopi for the period from 01-02-1993 to 25-01-1994. The four disputed withdrawals are recorded in Ext. ME-51 ledger. Subsequent transactions done by Mr. Gopi are recorded in his pass book by the workman himself. Yet he did not think it necessary to record the four withdrawals in the pass book. He must have noticed the difference in the balance in the account when entries were made in the ledger on subsequent dates. Ext. ME-53 pass book of Mr. Gopi shows that he was in the habit of depositing small sums almost every day and used to withdraw certain amounts at frequent intervals. The workman was a Teller. It was his duty to verify the signature of the account holder in the withdrawal slips before they were passed for payment. He should have compared signature with the specimen signature, Ext. ME-52. The workman alone is responsible regarding the withdrawals. He should explain how it had happened. The account holder had given Ext. ME-45 complaint to the Bank Manager complaining shortage of Rs. 12,000/- in his account. There was a discussion with the account holder in the presence of Bank Manager and other officers of the bank on 26-01-94. Ext. ME-46 is minutes of the discussion. However Mr. Gopi in his letter sent to bank Ext. DE-19 (marked in Court as Ext. ME-68) though admits that there was a discussion between him and the officers of the bank, he does not admit his statements in the minutes Ext. ME-46. According to him he had given a complaint dated 25-01-1994 (Ext. ME-45) to the bank due to a misunderstanding created on account of absence of relevant entries in the pass book and now that he has received the entire amount deposited by him he does not want to proceed with the complaint. Thus the complaint is admitted by Mr. Gopi. The documentary evidence Exts. ME 45 to 53 and the oral testimony of MW-1 and 3 leave no room for doubt that the withdrawals were done by the

workman himself by forging the signature of the customer and the money was misappropriated by him. The fact that the customer does not want to proceed with the complainant does not mean that the workman has not committed the misconduct. The change in the attitude of the customer is a subsequent development prompted by many reasons. But he set the all rolling and it is for the bank to continue the game. The contention of the union that the non examination of the account holder is fatal to the case of the management is equally untenable. Normally the bank will not drag a customer to the ordeal of enquiry lest the relationship between the customer and the bank is strained. Hence non examination of the account holder cannot affect the findings provided there are enough materials on record to bring home the guilt of delinquent. Hence the findings of disciplinary authority that charge No. 1 stands proved is only to be sustained while the finding of the Enquiry Officer to the contrary has to be reversed.

10. Charge No. 2 is that the workman deliberately omitted to record withdrawals in the pass book to mislead the customer. Ext. ME 53 is the pass book. It is seen that none of the four withdrawals dated 04-10-1993, 22-11-1993, 01-12-1993 and 17-12-1993 are recorded. Whereas they are shown in the ledger Ext. ME-51. It is not due to any over sight of the workman that this had happened, but it was a deliberate act to mislead the customer as well as defraud the bank as herein before mentioned. Hence the finding of the Disciplinary Authority that the 2nd charge is proved should stand and the finding of Enquiry Officer that charge No. 2 is only partly proved is unsustainable.

11. Charge No. 3 is that the worker had passed a forged withdrawal for Rs. 3,000/- from the account of Mr. C. A. Assainar on 04-12-1993. The Enquiry Officer has found the workman guilty of the charge and the disciplinary authority has concurred with the finding. Ext. ME-54 is the withdrawal slip. It is supposed to be signed by the account holder. On a perusal of the signature in Ext. ME-54 with Ext. ME-5 (specimen signature) anyone can say that both signatures are entirely different and there is no similarity at all. The workman was the Teller at the relevant time. It was his responsibility to verify the signature in the slip before passing the withdrawal. There can be no doubt that he had not verified the signature. The case of the management is that the slip was prepared by the workman himself. If so, the intention was to swindle the money. It was contended by the learned counsel for the union that the customer has not given any complaint to the management alleging shortage of deposit in his account. He was also not examined. Therefore according to the union there is no evidence to prove the charge. It is true that the customer has not complained. But the management came across the discrepancy in the account of the customer while verifying the account of Mr. Gopi and other transactions dealt with by the workman. It is not necessary that there should be complaint by the customer to initiate action against an employee. When the forgery came to the notice of the management, they have initiated action. It is also not necessary to examine the customer if there is enough other evidence to prove the charge. Therefore the contention of

the learned counsel cannot stand. I have already found that the signature in Ext. ME-54 is entirely different from the specimen signature Ext. ME-5 and the workman being the Teller he has to explain how the withdrawal was permitted. In the absence of any convincing explanation and in the light of the evidence on record he alone can be held responsible.

12. Charge No. 4 is that the workman had borrowed large sums of money from bank's customers misusing his position as a bank employee. It is alleged that,

- (1) He borrowed Rs. 5,000/- on 11-12-1993 from Mr. M. K. Abdul Khader, an account holder of the bank.
- (2) He borrowed Rs. 2,000/- on 22-11-1993 from Mr. C. P. Menon, another customer of the bank.
- (3) A sum of Rs. 2,000/- was borrowed on 21-10-1993 from Mr. Pradeep Kumar T., an account holder.
- (4) Rs. 6,260/- was borrowed on 09-11-1993 from Mr. M.T. Joseph.
- (5) On 09-11-1993 Rs. 3,500/- was borrowed by the worker from Mr. K.C.S. Menon, an account holder.
- (6) He also borrowed large sums of money on various dates from customer Mr. O.K. Gopi.

This conduct of the worker is alleged to be a minor misconduct under Clause 19.7 (1) of Bipartite Settlement. The Enquiry Officer found that charge is not proved. According to him the customer who was examined on the defence side as DW-1 had stated that he had entrusted the withdrawal slip after signing it to the workman as he was in a hurry to go. The amount withdrawn was received subsequently from the workman. Hence he has no grievance. Similarly some of the other alleged lenders too have the same stand. There is only oral evidence of the Bank Manager and Accountant in support of the charge. However the disciplinary authority differed with the finding of Enquiry Officer and held that the charge is proved. Ext. ME-6 is withdrawal slip for Rs. 5000/- signed by Mr. M. K. Abdul Khader. On the reverse side the workman has signed. This is admitted by DW 1, the account holder himself. The person who signed on the reverse side of the slip has received the money. MW-1 Mrs. Anna Koshy, who was the sub-accountant of H.S.S. department has given evidence that the amount as per Ext. ME-6 was received by the workman. She also stated that a businessman like Mr. Abdul Khader would not present a withdrawal slip without signing on its reverse side. He knows the consequence of not signing on the reverse side of the withdrawal slip. The intention is clear that the amount was meant for the workman. Similarly according to MW-1 Ext. ME-7 withdrawal slip for Rs. 2,000/- signed by Mr. C.P. Menon was entrusted to the workman, who signed on its reverse side and received the payment. MW-5 Mrs. N.Krishnaveni. Clerk of the bank has deposed that as per Ext. ME 61 Miscellaneous payment register of the date 09-11-1993 a cheque for Rs. 6,260/- (Ext. ME-9) was encashed and withdrawn from the account of

Mr. M.T. Joseph by the workman. She also says that using withdrawal slip dated 09-11-1993 for Rs. 3,500/- (Ext. ME-10) the workman had withdrawn Rs. 3,500/- from the account of Mr. K.C.S. Menon. According to her this is also evidenced by Ext. ME-61 Miscellaneous payment register. It is alleged that some money was borrowed from Mr. Gopi. According to the disciplinary authority the charge stands proved by Ext. ME-46 minutes of discussion. But the contents of Ext. ME-46 is under challenge in view of Ext. ME-68 letter of Mr. Gopi. Whatever that be, the other borrowings from other account holders are proved and the disciplinary authority has rightly found that the workman incurred debts in excess of his means to repay.

13. Charge No.5 is that the workman was habitually irregular in attendance. This charge is found partly proved both by Enquiry Officer and by the Disciplinary Authority. The disciplinary authority did not impose any separate punishment for this charge.

14. Charge No.6 is that the workman had issued several cheques without maintaining enough balance in his account and as a result the cheques were returned for insufficient balance. The enquiry Officer found that the management had established dishonour of six cheques for want of funds in workman's account. However according to the Enquiry Officer there is no evidence to show that the dishonour of cheques had tarnished the image of the bank. Hence it is found by the Enquiry Officer that the charge is not proved. Ext. ME-24 is outward cheque return register. It shows that six cheques were returned unpaid. Ext. ME-25 ledger extract of the account of the worker shows that on the dates when cheques were presented for payment enough balance was not there in his account to honour the cheques and so the cheques were returned. MW-1 and 2 support the case of management. It is on the basis of this evidence that the disciplinary authority differed with the finding of Enquiry Officer and held that the charge is proved and awarded the punishment of warning. There is no reason to deviate from the findings of the disciplinary authority.

15. Charge No. 7 is that the workman had issued as many as 10 cheques without providing enough balance in his account to meet those cheques and as a result the cheques could be honoured only after remittance of cash by the workman in his account. Details of cheques with numbers, dates, date of payment and the amount are mentioned in the charge sheet, Ext. ME-3. According to the management the workman borrowed indiscriminately without ascertaining his capacity for repayment and incurred debts in excess of his means to repay. The Enquiry Officer found that though the cheques were honoured only after remittance of the cash into the account by the workman none of the cheques were returned for want of funds. Hence the Enquiry Officer concluded that the workman could meet his commitments and so the charge is not proved. However the disciplinary authority differed with the finding. Ext. ME-25 is ledger extract of the account of the workman. It shows that the remittances were made into the account of the workman on nine occasions by Exts. ME-26, 27, 28, 29, 30, 55, 56, 57 and 58 credit slips. The amounts thus remitted

were the same as in the cheques. MW-1 says that it is after remittances of the amounts that the cheques could be honoured by the bank. The disciplinary authority has found that most of the cheques were for small sums and even those cheques could not be honoured for want of sufficient funds until remittances were made by the workman. Hence the disciplinary authority found that the workman was not able to repay the debts and he had borrowed money in excess of his capacity to repay and has committed misconduct under Clause 19.7 (1) of the First Bipartite Settlement for which he was punished with warning. I find no reason to deviate from the finding of the disciplinary authority.

16. Charge No. 8 is that the workman misused the overdraft facility sanctioned to him at concessional rate of interest being a bank employee and had drawn money exceeding the limit. The Enquiry Officer as well as the disciplinary authority found that the charge is not proved and therefore this court need not record any finding regarding charge No.8.

17. Charge No.9 is that the workman extended overdraft facility in H.S.S. accounts to four account holders irregularly and unauthorisedly and his acts are prejudicial to the interest of the bank. The Enquiry Officer as well as the Disciplinary Authority have found that the workman had no powers to allow account holders to overdraw amounts beyond the limit. He should have taken approval of the concerned officer. Ext. ME-37 is the ledger folio of account of Mr. S.P. Iyer. Ext. ME-36 is a self cheque issued by Sr. S.P. Iyer and was debited in the account on 23-08-1993, as there was no credit balance in his account. So also as per Ext. ME-38 cheque an amount of Rs.2000 was overdrawn by Sri. C.K. Gopalakrishnan from his account 2080. It can be seen from Ext. ME-39 ledger sheet. Similarly from the account of Sri. P.A. Muhammed Rs.6,000 was overdrawn by Ext. ME-40 withdrawal slip on 04-10-1993 and is evidenced by Ext. ME-41 ledger folio. Similarly Sri. Pradeep Kumar overdraw Rs. 17,000 from his H.S.S. account No. 4735 as per cheque dated 20-11-1993 (Ext. ME-42). This is seen from Ext. ME-43 ledger folio. Since the overdraft in excess of the limit was allowed by the workman without approval it is an act prejudicial to the interest of the bank under Clause 19.5 (j) of the Bipartite Settlement. The learned counsel for the union has not been able to point out any infirmity in the finding.

18. Charge No. 10 is that the workman had abused the armed guard of bank on 15-06-1994 in the presence of the Bank Manager while in the cabin of the Manager. It is alleged to be a gross misconduct under Clause 19.5 (c) of the Bipartite Settlement. Both the Enquiry Officer and the disciplinary officer found the workman guilty of the charge. But according to the learned counsel for the union the workman had not used any filthy language as alleged in the charge. He was provoked by the armed guard and there was some exchange of words between them and nothing more. Ext. ME-60 is a complaint given by armed guard (MW4) to the Bank Manager. The complaint is purported to have two pages. But on perusal of Ext. ME-60 it is seen

that though both pages are dated 17-06-1994 they were received by the bank on 24-06-1994. The first page of Ext. ME-60 is seen concluded with the concluding word sincerely and signature and the name of the author underneath. The 2nd page is also concluded with the word sincerely with signature and name. Both are written with two inks. In the first page of Ext. ME-60 MW-4 has mentioned that he was abused by the workman on 15-06-1994. But the words of abuse are not quoted. They are mentioned in page 2 of Ext. ME-60. Probably to supplement the first page of Ext. ME-60 that the 2nd page was added later. Whatever be the correctness of Ext. ME 60 the Bank Manager MW3 has testified that the workman abused the armed guard while the former was in the cabin of the Bank Manager. There is no reason to disbelieve a responsible officer like the Bank Manager especially when there is no ill will towards the workman. The disciplinary authority on the basis of the finding that he is guilty imposed punishment of discharge from service. There are no convincing reason to take a different view regarding charge No. 10.

In the light of the reasons stated above I hold that the findings of the disciplinary authority that charges 1, 2, 4, 6, 7, 9 and 10 stand proved, charge No.5 partly proved and charge No. 8 is not proved, are only to be confirmed.

19. Point No. 2 :—The punishment imposed are :

- Charge No. (1) : Dismissal from service without notice under Clause 19.6(a) of First Bipartite Settlement.
- (2) : -do-
 - (3) : -do-
 - (4) : Warning under Clause 19.8(a).
 - (5) : No penalty.
 - (6) : Warning under Clause 19.8(a).
 - (7) : -do-
 - (8) : No penalty.
 - (9) : Stoppage of one increment with cumulative effect under Clause 19.6(d).
 - (10) : Discharge from Bank's service under Clause 19.6(e).

20. The penalty of dismissal is imposed in respect of the gross misconduct. It is pleaded in para 15 of the claim statement by the union that the workman has an unblemished service of 22 years in the bank, out of which he was a Teller for more than 10 years. His remaining service period as in 1995 is 16 years. He has a family consisting of widowed mother, wife and two school going female children who all depend on him. His sole source of income was from the bank. He has no other employment. The family background and the mitigating circumstances cannot lighten the seriousness of the misconduct which are many. The workman was holding a responsible post of Teller, who is expected to have utmost honesty and integrity. The irregularities and misconduct committed by him cannot be condoned by a banking institution which is functioning on the strength of the confidence and trust of the public. The learned counsel for the management on the basis of

the decision in *SBI v. S.N. Goyal* (2008) 8 SCC 92 submitted that once the enquiry is found proper it is not for the court to interfere with the punishment. In para 23 of the judgment it is held that when enquiry is found fair and valid it is not proper for the court to interfere with the punishment. In *South Indian Bank Limited v. Krishna Kumar* 2006(1) KLT S.N. 17 it is held that the jurisdiction of the Labour Court under Section 11-A of Industrial Disputes Act is not a jurisdiction of sympathy and it is only when the punishment is disproportionate to the gravity of misconduct that the labour court can interfere with the punishment.

21. In the light of the above observation as well as in the face of too many major misconduct affecting the reputation of the bank and touching the trust of the public in the bank, I think no interference in the punishment is called for in this case.

In the result an award is passed finding that the action of the management in dismissing Sri.M.M. Nandakumar from the service of the bank is legal and justified and he is not entitled for any relief.

The award will come into force one month after its publication in the Official Gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 7th day of November, 2008.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the Union — Nil

Witness for the Management

MWI - 10-12-2003 Shri. K. Sankarayyar

Exhibit for the Union — Nil

Exhibits for the Management

M-1 — Enquiry File.

M-2 — File containing documents of enquiry, proceedings of Disciplinary Authority and Appellate Authority.

M-3 — Photocopy of Memo No. CRO:PRS: 94-95/842 dated 22-06-1994 (ME-1).

M-4 — Photocopy of Memo No. CRO:PRS:94-95/1196 dated 25-07-1994 (ME-2).

M-5 — Photocopy of Charge sheet No. CRO:PRS: 94-95/1556 dated 24-08-1994 (ME-3).

M-6 — Photocopy of Withdrawal slip dated 03-01-1994 for Rs. 300 of HSS 6237 of O.K.Gopi (ME-4).

M-7 — Photostat copy of specimen signature card of Account No. 6277 of S.A.Assainar (ME-5).

M-8 — Photocopy of Withdrawal slip dated 11-12-1993 for Rs. 5000 of HSS A/c. 576 of Mr. M. K. Abdulkhader (ME-6).

M-9 — Photocopy of Withdrawal slip dated 22-11-1993 for Rs. 2000 of HSS 1769 of Mr. C. P. Menon (ME-7).

M-10 — Photocopy of Withdrawal slip dated 21-10-1993 for Rs. 2000 of HSS A/c. No.4735 of Mr. Pradeep Kumar (ME-8).

M-11 — Photocopy of Cheque No.43089 dated 09-11-1993 for Rs. 6260 of A/c. No.6053 of Mr. M. T. Joseph (ME-9).

M-12 — Photocopy of Withdrawal slip of Rs.3,500 dated 09-11-1993 of A/c. No. 7100 of Mr. K. C. S. Menon (ME-10).

M-13 — Photocopy of Muster Roll for the period November, 1992 of Alwaye Branch of clerical staff (ME-11).

M-14 — Photocopy of Muster Roll for the period December, 1992 of Alwaye Branch of clerical staff (ME-12).

M-15 — Photocopy of Muster Roll for January, 1993 of Alwaye Branch of clerical staff (ME-13).

M-16 — Photocopy of Muster Roll for February, 1993 of Alwaye Branch of clerical staff (ME-14).

M-17 — Photocopy of Muster Roll for March, 1993 of Alwaye Branch of clerical staff (ME-15).

M-18 — Photocopy of Muster Roll for April, 1993 of Alwaye Branch of clerical staff (ME-16).

M-19 — Photocopy of Muster Roll for May, 1993 of Alwaye Branch of clerical staff (ME-17).

M-20 — Photocopy of Muster Roll for June, 1993 of Alwaye Branch of clerical staff (ME-18).

M-21 — Photocopy of Muster Roll for July, 1993 of Alwaye Branch of clerical staff (ME-19).

M-22 — Photocopy of Muster Roll for August, 1993 of Alwaye Branch of clerical staff (ME-20).

M-23 — Photocopy of Muster Roll for September, 1993 of Alwaye Branch of clerical staff (ME-21).

M-24 — Photocopy of Muster Roll for January, 1994 of Alwaye Branch of clerical staff (ME-22).

M-25 — Leave record of Mr. Nandakumar of Alwaye Branch for 1992, 1993 & 1994 (ME-23).

M-26 — Outward cheque return register of Alwaye Branch Pages 14 & 15, 20-21, 32 & 33, 34 & 35 (ME-24).

M-27 — Ledger extract of a O/D A/c of Mr. Nandakumar covering the period September 7, 1991 to 25-02-1994 (ME-25).

M-28 — Remittance chalan for Rs. 700 dated 31-07-1993 of O/D. A/c. of Mr. Nanda kumar (ME-26).

M-29 — Photocopy of remittance chalan for Rs. 700 dated 10-08-1993 of O/D. A/c. of Mr. Nanda kumar (ME-27).

M-30 — Photocopy of remittance chalan for Rs.700 dated 05-11-1993 of O/D. A/c. of Mr. Nandakumar (ME-28).

- M-31 — Photocopy of remittance chalan for Rs.250/- dated 04-01-1994 of O/D. A/c. of Mr. Nandakumar (ME-29).
- M-32 — Photocopy of remittance chalan for Rs.10500/- dated 06-01-1994 of Mr. Nandakumar (ME-30).
- M-33 — Photocopy of cheque No. 691 for Rs. 700/- drawn by Mr. Nandakumar (ME-31).
- M-34 — Photocopy of cheque No. 694 for Rs.700/- drawn by Mr. Nandakumar (ME-32).
- M-35 — Photocopy of cheque No. 1337 for Rs.250/- drawn by Mr. Nandakumar (ME-33).
- M-36 — Photocopy of cheque No. 1514 for Rs.10,500/- drawn by Mr. Nandakumar (ME-34).
- M-37 — Photocopy of Regional Office sanction No.CRO:ADV:9293/216 dated 01-06-1992 for Rs.7,600/- in favour of Mr. Nandakumar (ME-35).
- M-38 — Photocopy of cheque No.040053 dated 23-08-1993 of Account No.1034 of S. P. Iyer (ME-36).
- M-39 — Photocopy of ledger extract of A/c. 1034 covering the period 23-08-1993 (ME-37).
- M-40 — Photocopy of cheque No.42831 dated 25-10-1993 of Account No.2080 of Shri. C.K. Gopalakrishnan Nair for Rs.2000/- (ME-38).
- M-41 — Photocopy of ledger extract of HSS 2080 of Shri. C. K. Gopalakrishnan covering the period 25-10-1993 (ME-39).
- M-42 — Photocopy of withdrawal slip dated 04-10-1993 of HSS 5497 of Mr. P.A. Mohammed (ME-40).
- M-43 — Photocopy of ledger extract of HSS 5497 of Mr.P.A. Mohammed (ME-41).
- M-44 — Photocopy of cheque No. 25060 dated 20-11-1993 of Account 4735 of Mr.Pradeepkumar (ME-42).
- M-45 — Photocopy of ledger extract of HSS 4735 (ME-43).
- M-46 — Photocopy of ledger extract of 6277 of C.A.Assainar of the period from 24-05-1993 to 12-03-1994 (ME-44).
- M-47 — Photocopy of statement of Mr. Gopi dated 25-01-1994 (ME-45).
- M-48 — Photocopy of statement of Mr.Gopi dated 26-01-1994 (ME-46).
- M-49 — Photocopy of withdrawal slip dated 04-10-1993 of HSS A/c. 6237 for Rs. 3000/-of Mr. O.K. Gopi. (ME-47).
- M-50 — Photocopy of withdrawal slip dated 22-11-1993 of HSS A/c. 6237 of Mr. O.K. Gopi. (ME-48).
- M-51 — Photocopy of withdrawal slip dated 01-12-1993 of HSS A/c. 6237 of Mr. O.K. Gopi. (ME-49).
- M-52 — Photocopy of withdrawal slip dated 17-12-1993 of HSS A/c. 6237 of Mr. O.K. Gopi. (ME-50).
- M-53 — Photocopy of ledger extract of HSS A/c. 6237 of O.K. Gopi of the period from 04-10-1993 to 10.01.1994 (ME-51).
- M-54 — Photocopy of specimen signature card of HSS 6237 of Mr. O.K. Gopi. (ME-52).
- M-55 — Photocopy of Pass book of HSS 6237 of Mr. O.K. Gopi (ME-53).
- M-56 — Photocopy of withdrawal slip dated 04-12-1993 for Rs. 3,000/- of HSS 6277 (ME-54).
- M-57 — Photocopy of remittance chalan 05-07-1993 for OD A/c. of Mr. Nandakumar (ME-55).
- M-58 — Photocopy of remittance chalan dated 08-07-1993 of OD A/c. of Mr. Nandakumar (ME-56).
- M-59 — Photocopy of remittance chalan dated 08-09-1993 of OD A/c. of Mr. Nandakumar (ME-57).
- M-60 — Photocopy of remittance chalan dated 02-11-1993 of OD, A/c. of Mr. Nandakumar (ME-58).
- M-61 — Photocopy of Teller payment register 04-10-1993, 22-11-1993, 01-12-1993 and 17-12-1993 (ME-59).
- M-62 — Letter dated 07-06-1994 from Mr. Chithran (ME-60).
- M-63 — Copy of cash payment register dated 09-11-1993 of Alwaye Branch (ME-61).
- M-64 — Photocopy of office order book 1993-1994, Pages 40,41,42 and 44 (DE-1).
- M-65 — Photocopy of the relevant pages of the TOD register (DE-2).
- M-66 — Photocopy of Head Office Circular No.CO : 93-94 : 355 dated 26-11-1993 (DE-17).
- M-67 — Photocopy of Head Office Circular No.CO/88/396 dated 04-08-1988 (DE-18).
- M-68 — Photocopy of letter of O.K. Gopi dated 16-02-1994 (DE-19).
- M-69 — Photocopy of cash payment register of Central Bank of India, Alwaye Branch dated 09-11-1993 (DE-20).
- M-70 — Photocopy of muster roll of officers and sub staff for the month of January 1994 (DE-21).

नई दिल्ली, 29 जनवरी, 2009

का.आ 446.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार, नाबारद के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट (संदर्भ संख्या 10/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12011/185/2005-आई आर(बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 446.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.10/2006) of the Central Government Industrial Tribunal -cum Labour Court, Bhubaneswar as shown in the Annexure, in the Industrial Dispute between the management of NABARD and their workmen, received by the Central Government on 29-1-2009.

[No. L-12011/185/2005-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR**

PRESENT

Shri N.K.R. Mohapatra,
Presiding Officer, C.G.I.T.-cum-
Labour Court, Bhubaneswar

Industrial Dispute Case No. 10/2006

Date of Passing Award—14th November, 2008

BETWEEN

1. The Management of the Chief General Manager, NABARD, Plot No. 2/1, Civic Centre, Nayapalli, Bhubaneswar, Orissa.

2. The Proprietor, M/s. Well Tech, Plot No. 3564, Palasuni (NH Side), Rasulgarh, Bhubaneswar, Orissa.

... 1st Party-Managements.

And

Their Workman Shri Sanatan Das, Plot No. LIG- 6/1, BDA Colony, Phase-I, Chandrasekharpur, Bhubaneswar, Orissa.

... 2nd Party-Workman.

APPEARANCES

A.V. Shimpi, D.G.M. ... For the 1st Party-Management No. 1

M. Jan. ... For the 1st Party-Management No. 2

Shri Sanatan Das ... For the 2nd Party-Himself-the workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication vide their Order No. L-12011/185/2005-IR(B-II), dated 17-05-2006.

“Whether the action of the Management of NABARD in terminating the services of Shri Sanatan Das, Electrician, by way of refusing employment even after rendering continuous service of 15 years and without complying Section - 25(F) of the I.D. Act, 1947 is legal and justified? If not, what relief the workman is entitled to?”

2. Alleging to have been illegally terminated, the workman raised an Industrial Dispute against the Management resulting in the present reference. In his Claim Statement filed before the Tribunal it is alleged by the disputant that the Management of NABARD having employed him initially on 1-10-1990 as an Electrician placed him subsequently under different contractors and ultimately terminated him through the contractor M/s. Well Tech (Management No. 2) ignoring the fact that by then he had already worked for more than 14 years.

3. In reply to the above stand of the workman both the Managements filed their Written Statement separately. To speak in short, the Management No. 1 (NABARD) took the stand that the workman was never engaged by that Management and that if at all he had worked as an Electrician he must have been engaged by some contractors who used to take such contract from time to time for electrical work. The Management No. 2 M/s. Well Tech took the stand that having taken the contract from Management No. 2 to attend to petty electrical work as and when required, he engaged the disputant as a sub-contractor to look after the above needs of Management No. 1 in consideration of a fixed sum. But as he did not attend to the requirements of the Management sincerely and refused to go to other site, his dues were paid off on full and final settlement and was discharged from the obligation of being called a sub-contractor.

4. Thus on the basis of the above pleadings of both the Managements that the workman was not a paid worker under any of them but was merely a sub-contractor of Management No.2, the following issues were framed:

ISSUES

1. Whether the workman was employed as a Electrician by the NABARD for a period of 15 years continuously?

2. Whether the workman was engaged as a sub-contractor by M/s. Well Tech, a contractor of NABARD?

3. Whether the termination of workman was made by NABARD and if so, whether the same was legal and justified?

4. If not, to what relief the workman is entitled to?

5. For remaining absent and not taking any steps either himself or through any authorized representative, the workman was set ex parte and the evidence of both the Managements was recorded and documents produced by them were marked as Ext. 1, 1/1 and Ext.-2.

Issue No. 1 to 4

6. All these issues are taken up together as they are inter-linked.

From the evidence adduced by the Managements it appears that the workman was never engaged as an Electrician by Management No.1. The claim statement of the workman on the other hand indicates that he was working under different contractor and, therefore, it can not be believed that he could have been terminated by that Management No.1.

7. The evidence of Management No. 2 shows that he had taken a contract from Management No.1 for time to time maintenance of the Electric fittings of various residential quarters of Management No.1 during 2003 to 2005 and that he was possessed an electrical contract license granted by Chief Electrical Inspector, Government of Orissa. But he had not obtained any license under Contract Labour (Regulation & Abolition) Act since he was running with his contractory business engaged two paid employees only. His evidence further shows that after taking the contract from Management No.1 for maintenance of Electrical fittings and appliances of various residential quarters, he entrusted the said work to the workman, as his sub-contractor for an agreed sum of Rs. 2000 per month. One such payment voucher produced by the Management marked as Ext.-2 shows that in fact, the disputant was working as a sub-contractor of Management No. 2 and that he has already been paid his dues on 10-3-2005 in full satisfaction of his claim.

8. Thus in these premises, especially in the absence of any cogent evidence produced by the disputant it cannot be said that the disputant was an employee of Management No. 2 and that he was terminated illegally by the said Management in violation of Section 25-F of the Industrial Disputes Act.

9. Furthermore it should not be lost sight of the fact that while making a reference the Government should bestow great care so as to obviate references which are baseless and do not represent the actual dispute between the parties. It should, therefore carefully formulate the points of dispute clearly to avoid ambiguity or prejudice or advantage to one or the other party. Therefore, if an order of

reference does not specify the name of the employers on the date of termination/retranchment the same would be bad for vagueness. Therefore, for not specifying the date of termination of the disputant in the present reference is otherwise held to be bad in the eye of law.

10. However, in my view of the matter the disputant for the discussions made earlier, is not entitled for any relief and, accordingly, the reference is answered exparte against him with no relief.

11. The reference is answered accordingly.

N. K. R. MOHAPATRA, Presiding Officer

LIST OF WITNESSES EXAMINED ON BEHALF OF THE 2ND PARTY-UNION.

The 2nd Party-Union has not examined a Single Witness.

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE 2ND PARTY-WORKMAN.

The 2nd Party-Union has not exhibited a single document.

LIST OF WITNESSES EXHIBITED ON BEHALF OF THE 1ST PARTY-MANAGEMENT NO.2

M.W.-1-Shri A.V. Shimpi

M.W.-2-Shri M. Jan.

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE 1ST PARTY-MANAGEMENT NOS.1 & 2

Ext.-1 Details of payment made to M/s. Well Tech.

Ext.-1/1 Details of TDS for the year 2004-2005.

Ext. -2- Payment voucher.

नई दिल्ली, 29 जनवरी, 2009

का.आ. 447.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, मुंबई सं. 2 के पंचात (संदर्भ संख्या 2/172/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12012/100/1999-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 447.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.2/172/1999) of the Central Government Industrial Tribunal-Cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 29-1-2009.

[No. L-12012/100/1999-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI****PRESENT****A.A. LAD, Presiding Officer****Reference No. CGIT-2/172 of 1999****Employers in Relation to the Management of Central Bank
of India****The Regional Manager,
CBI, Regional Office,
Chandekar Mukhi, Nariman Point,
Mumbai 400 021.****First Party****V/s.****Their Workmen****Central Bank Employees Association
The General Secretary, CBEA, Central
Bank Bldg. No. 2, East Wing, 4th floor;
Hutatma Chowk, M.G. Road,
Mumbai 400 023.****Second Party****APPEARANCE****For the Employer : Mr. L.L. D'souza, Representative****For the Workmen : Mr. A.P. Kulkarni, Advocate.****Date of reserving the Award : 12-6-2008.****Date of passing the Award : 16-12-2008.****AWARD—PART II**

The matrix of the facts as culled out from the proceedings are as under :

1. The Government of India, Ministry of Labour by its Order No. L-12012/100/1999 IR(B-II), dated 23rd August, 1999 in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

“Whether the action of the Central Bank of India by inflicting the punishment for stopping of one increment for one year besides permanent withdrawal of the Special Assistance Allowance of Shri P.K. Kulkarni is justified? If not, then to what relief the workman is entitled to?”

2. Workman Shri P.K. Kulkarni was working as Special Assistant in the Central Bank of India, Churchgate Branch in the year 1994. The Central Bank Employees Association vide Statement of Claim (Exhibit -4) contended that workman had an unblemished service record. He was issued charge sheet dated 17th August, 1994 alleging that on 10-2-1994 he afforded a fictitious credit entry of Rs.500 in his Overdraft Account No.300382 to facilitate payment of cheque No. 81304 for Rs.244.75 Ps. Which entry was subsequently

reversed as contra entry on the same day and that on 11-2-1994 he posted a fictitious credit entry of Rs.6,000 in his Overdraft Act. No.300383 which amount was transferred on 11-2-1996 to his O.D. A/c. No.300382 to reduce the outstanding debit balance from 25,107.75 to Rs.19,107.75 in order to enable him to withdraw cash of Rs.1000 by cheque No.81306 for Rs.264 and cheque Nos.81302 and 81303 for Rs.2,100 each, further alleging that the fictitious entry of Rs.6,000 was reversed by him on 22-2-1994 by manipulating the same on back dated transactions of 11-2-1994 and that he prepared the relative supporting vouchers of the said entries in his own handwriting. It is contended that Mr.R.N. Iyer conducted the inquiry of the charges as above and that he held charges not proved, vide his finding and report dated 21-4-1994. It is pleaded that, the inquiry officer pointed out that, the entries were nothing but merely certain operational mistake and that bank did not suffer any loss because of the over-draft accounts. He further found that, the said entries were not made with animus. However, inspite of this clear cut findings of having workman not guilty the Disiplinary Authority vide their Memo dated 29th April, 1995 disagreeing with the findings held that, the charges as alleged are proved and consequently sought explanation of workman and that, by the letter dated 15th July, 1995 imposed punishment on the workman as reduction to a lower scale in the scale of pay by one year and withdrawal of his special allowance under the Bipartite settlement. It is contended appeal against the same was rejected on 15th January, 1996. It is contended the punishment imposed was against the four corners of law and therefore the action of the Management is illegal. It is contended that, the findings of the Disciplinary Authority are not based on the evidence before him and consequently Union contended to set aside the order of punishment imposed by the Management, and consequently relief of payment of natural increment, special allowance be awarded.

3. Management Central Bank of India opposed the claim of the Union by filing Written Statement (Exhibit 5) contending that, the findings recorded by the inquiry officer were not as per the record and the evidence, and therefore Disciplinary Authority did not concur with the findings and therefore directed the workman to make his submissions and that considering his submissions dated 26th May, 1995 and the inquiry proceedings the, Disciplinary Authority, by the order dated 15th July, 1995 imposed the punishments reproduced supra. It is contended that, charges alleged and proved against the workman were serious enough to merit the punishment of dismissal from service, however, with a view to give opportunity to reform and correct himself, a lenient view was taken on imposing punishment by way of reduction is contended that, the findings of the Disciplinary Authority are based on the evidence before it and that, the action was totally justified.

4. On the basis of the pleadings my Ld. Predecessor framed Issues at Exhibit 8 and decided Part I Award on the

point of findings, holding the findings of the Disciplinary Authority not based on the evidence, by order dated 31-1-2002.

5. Then remaining Issues i.e. issue of action of Management in effecting punishment of stoppage of one increment for one year and permanently withdrawal of Special Assistance Allowance whether is justified is taken into consider which I answer as follows:

ISSUES

FINDINGS

3. Whether the action of the Management in inflicting the punishment of stopping of one increment for one year besides Permanent withdrawal of the Special Assistants' Allowance of the workman is justified?

No

4. If not, what relief the workman is entitled to?

2nd Party entitled to increment and permanent Special Assistants Allowance of his post.

ISSUE NO. 2 & 3:

6. In support of the action taken by the 1st Party and as per the directions of my Predecessor, 1st Party was asked to justify the action of stoppage of one increment for one year and permanently withdrawal of Special Assistants' Allowance, 1st Party examined Salish Chander Kapoor at Exhibit 53 who states that, the Disciplinary Authority who took decision on the findings of the Enquiry Officer observing finding given by the Enquiry Officer were not correct. Disciplinary Authority changed the finding of the Enquiry Officer, holding concerned workman was guilty of the charges leveled against him and the finding given by the Enquiry Officer were not correct finding. He gave punishment of stoppage of one increment and for one year and permanently withdrawal of Special Assistance Allowance which 2nd Party was getting. He states that, the concerned workman was issued Charge sheet dated 17th August, 1994 for the misconduct as mentioned in the said charge sheet. He states that, the concerned workman participated in the Enquiry which was concluded after giving him full opportunity and that, the enquiry was conducted in accordance with the principles of natural justice and the enquiry report was submitted by the Enquiry Officer. He states that, he did not agree with the findings of the Enquiry Officer. He states that, concerned workman while working as a ALPM Operator at Churchgate Branch had made fictitious credit entry of Rs.500 in his Over Draft Account No.382. Said over draft account was having D.P. limit of Rs.25,000. He states that, from the said account on 11-12-2002 and on 10-2-1994 the concerned Workman's

Over Draft Account No.382 showed a debit balance of Rs.24,863. He states that, said entry was fictitious credit entry. He states that, on the same date a fictitious credit entry of Rs.500 was made by the concerned workman in his said account to facilitate him to upgrade the said amount to Rs.25,000 to enable him to utilize the said amount. As a result of that, he was able to show balance of Rs.25,107.25 in his Over Draft Account No.382. He was also having another Over Draft Account No.383. It shows that, there is also a fictitious credit entry of Rs.6000. He made that, entry to enable him to show over draft limit of that account. In fact said amount was not deposited but he shown fictitious entry of Rs.55,895.75 in the account No.383 and made some fictitious entries in the said over draft accounts. The concerned Workman made said fictitious entries in the Over Draft account without the permission of the authorities. Even he admitted having made those entries and as such charges leveled against the concerned workman were proved. Enquiry Officer has wrongly observed that, the charges leveled against the concerned Workman are not proved. In the cross this witness states that, he feels there is provision of such multiple punishment. He admits that, Mr.Iyer was the Enquiry Officer who concluded in the enquiry holding that the concerned workman not guilty of the charges. He states that, he differed from the findings of the Enquiry Officer Mr. Iyer. He states that, he has not mentioned anything about reply given by the concerned workman to the charge sheet. He admits that, he has not quoted any evidence of the Management while changing the finding of the Enquiry Officer. He admits that, no fresh material was brought on record by the Management when he took decision on the finding given by the Enquiry Officer. He states that, he has not considered the evidence of the witnesses. He states that, he applied his mind on the charges leveled against the concerned workman and gave finding accordingly. He admits that, no additional material was brought before him by the Bank to reverse the finding of the Enquiry Officer. He admits that, no additional evidence was led by the Bank at the time of giving finding by me. He admits that, the nothing was intimated to the concerned workman while issuing notice by him and the point on which he was to decide the finding of the Enquiry Officer. He admits that, no any criminal proceedings were initiated against the concerned workman. He states that, he has not mentioned in his finding about the loss suffered by the Bank as a result of the 2nd Party. He states that, he has casted burden on the charge sheeted employee to disprove the charges leveled against him. On that, the concerned workman filed affidavit at Exhibit 55 and tried to explain how decision given by the Disciplinary Authority i.e. by Mr. Kapoor is not just and proper and how his finding is perverse? He admits that, he was having two Over Draft Accounts viz. 382 and 383. He states that, the limit of O.D. A/c. No.382 was Rs.50,000 and Over Draft limit of O.D. A/c No.383 was Rs.25,000. He states that, the Enquiry Officer has considered the evidence and observed that, he was not

guilty of the charges. He states that, Mr. Kapoor on his own took decision in holding him guilty without any additional evidence. According to 2nd Party, in fact Mr. Kapoor was not having any reason not to concur with the finding of the enquiry and set aside the finding of the Enquiry Officer and give finding and take different opinion than taken by the Enquiry Officer. On that 2nd Party closed evidence by filing closing purshis at Exhibit 56.

7. 1st Party submitted written arguments at Exhibit 57 with citations and that of 2nd Party by filing written arguments at Exhibit 59 with citations.

8. Question before us is whether the decision taken by the Disciplinary Authority, Mr. Kapoor, of changing decision on inquiry finding and stopping one increment for one year and withdrawing permanently Special Assistance Allowance is just and proper?

9. The charge of misusing over draft facility is leveled against the concerned workman. It is admitted position that, the concerned workman was having over draft Account Nos. 382 and 383 with the over draft limit of Rs.25,000 and Rs.50,000 respectively. Evidence of the Enquiry Officer who acquitted the concerned workman from the charges is only on record. Mr. Iyer was the Enquiry Officer, Management filed it at Exhibit 9. Said Mr. Iyer gave finding on Charge No.1 that the transaction at the most can be error than a deliberate act of effecting said credit entry and that, it is not proved. He observed that, Charge No.2 was in the nature of the mistake committed by the concerned workman and not in the nature of misconduct. He also observed that, there was no motive behind this transaction. He states that, he visited on very day the Bank to verify the entries of reversing the amount in so far as in respect of charge No.2 was unintentional. These reasons given by the Enquiry Officer were not accepted by the Disciplinary Authority. It is observed by Disciplinary Authority that, the findings given by the Enquiry officer on Charge No.1 was not genuine one and disagreed with said reasons. It is to be noted that, the Enquiry Officer has discussed the material on record and documents after going through all these where he found the concerned workman not guilty of the charges leveled against him. There was charge of making fictitious entry of Rs.500 in O.D. Account No.3892/383 of the concerned workman. He also discussed Charge No.2 coupled with the evidence on record and observed that the transactions record tally with the Cash Book. Even it is not explained by the Disciplinary Authority, as to why, he is differing from the finding of the Enquiry Officer? No reason is given by the Disciplinary Authority while disagreeing with the finding of the Enquiry Officer.

10. So this is the evidence brought on record which is before us and the same was considered by the Disciplinary Authority which according to 1st Party permit Disciplinary Authority to draw different opinion than what was drawn by the Enquiry Officer.

11. When that is the situation, case of the 2nd Party is that, Disciplinary Authority has no right to change the finding of the Enquiry Officer and differ from the finding of the Enquiry Officer and punish him as per its own ideas and whims. It is also alleged that, the decision taken by the Disciplinary Authority is arbitrary and for the same act the concerned workman cannot be punished twice. According to 2nd Party he cannot be punished twice as by per the decisions number of Courts including Apex Court in the case of Shiv Kumar Sharma vis. Haryana State Electricity Board, Chandigarh published in AIR 1988 SC page 1673. Even decision given by Apex Court in case of A.L. Kalra Vs. Project & Equipment Corporation of India Ltd. Published in 1984(II) LLJ page 186 and the decision given by our Hon'ble High Court in case of Food Corporation of India Employees Association in (West Zone & anr. Published in 2007 IICLR page 453, decision of our Hon'ble Court given in case of Bank of Baroda, Bombay, Vs. Subash Prabhakar Kamath and anr. published in 1988 FLR page 577 and the decision of Hon'ble Calcutta High Court in case of Prabudha Roy Vs. Punjab National Bank & ors. Published in 1999 II CLR page 353, of Rajasthan High Court in case of Kamruddin Pathan Vs. Rajasthan State Road Transport Corporation published in 1988 (I) CLR page 310, decision of Calcutta High Court in case of Purnendu Narayan Chakraborty vs. The Hon'ble Chief Justice High Court published in 1990 (II) LLJ page 116, in the decision of Andhra Pradesh High Court indeciding the case of M.C. Jain Vs. The Chairman & Managing Director, Cement Corporation of India Ltd. published in 1991 LAB I.C. 1438, on the decision given by Andhra Pradesh High Court in case of Depot, Manager, A.P.S.R.T.C. Vs. N. Ramulu & ors published in 1996 II CLR page 666. It is also stated by the 2nd Party that, if the Disciplinary Authority want that, Enquiry Officer must consider evidence which is on record, if evidence on record is not considered and the finding given by the Disciplinary Authority differ from the finding given by the Enquiry Officer is not substantial. For that, he relied on the decision given in Yoginath D. Bagde vs. State of Maharashtra and anr. published 1999 II CLR page 971 and on the decision of Apex Court in case of Puniab National Bank & anr. Vs. Kunj Behari Mishra published in AIR 1988 SC page 2713, on the decision of Apex Court in case of S.B.I. & ors. Vs. Arvind K. Shukla published in 2001 II CLR page 300, on the decision of our Hon'ble High Court in case of Food Corporation of India Employees Association, West Zone & anr. Vs Food Corporation of India & ors. Published in 2007 II CLR page 453 and on the decision given by Apex Court while deciding the case of Chennai Metropolitan Water Supply and Sewerage Board and ors. Vs. P. Palanivelan published in 2006 (109) FLR page 807.

12. 1st Party's Advocate submitted that, the Disciplinary Authority can interfere into the matter freshly and independently on the finding given by the Enquiry

Officer and even double punishment can be given as happened in the instant case. For that, he placed reliance on the decision given by our Hon'ble High Court in case of Hindoostan Spinning & Weaving Mills, Mumbai Vs. Hindoostan Crown Mills Siddhi Vinayak Kamgar Karamchari Sangathan published in 2008-1-LLJ page 243. He also placed reliance on decision of the Apex Court in case of Regional Manager, U.P.S.R.T.C., Etawah & ors. Vs. Motilal & ors. and on the decision of the Apex Court given in case of Suresh Pathrella Vs. Oriental Bank of Commerce published in 2007 (1) LLN page 780.

13. Disciplinary Authority admits that, he considered the only evidence which was placed before the Enquiry Officer. He also states that, he has not given reasons as to why he is differing from the finding of the Enquiry Officer. On the contrary Enquiry Officer stated that, those were not genuine mistakes but said mistakes were not in the nature of "misconduct" for which 2nd Party cannot be punished as punished by the Disciplinary Authority. Even Enquiry Officer considered the evidence placed before him and observed that, the transactions involved in the proceedings was done without any motive. These were done just to make the entry. It also observed that, these were done in the nature of mistake and not in the nature of misconduct and no any other meaning can be drawn from said act of the concerned workman than nature of mistake and it cannot be pointed out as nature of mistake and nature of mistake is not proved, definitely Bipartite Settlement does not permit to punish the employee like this.

14. According to me the finding given by the Disciplinary Authority reversing the finding of the Enquiry Officer has no ground. Disciplinary Authority has not given any reason as to why it is differing from the finding of the Enquiry Officer. When that is the position and considering the charges leveled against the concerned workman and the finding given by the Enquiry Officer, I am of the view that, the concerned Workman cannot be punished as punished by stopping one increment and withdrawing permanently Special Assistance Allowance facility which is available to him. According to me concerned Workman is entitled for the reliefs as charges leveled against the concerned workman does not fall within the meaning of "misconduct" which is contemplated in para 9(5)(j) of Bipartite Settlement and for that, he cannot be punished as punished. So I answer this Issue to that effect. Even decision of punishment taken regarding concerned workman of stoppage of one increment for one year and withdrawing permanently the facility of Special Assistance Allowances requires to be set aside with directions to 1st Party to pay the same to the concerned workman from this date. Hence, the order.

ORDER

- (a) Reference is allowed;

- (b) 1st Party is directed to release stopped one increment, as well as release the Special Assistance Allowances available to the concerned workman from the date of stoppage of it which was banned as a result of action taken by the 1st Party.

- (c) No order as to its costs.
Bombay 16th December, 2008

A. A. LAD, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ. 448.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बोबकार्ड्स लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुंबई के पंचाट (संदर्भ संख्या 2/34/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12011/45/2003-आईआर(बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 448.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No.2/34/2003) of the Central Government Indus. Tribunal-Cum-Labour Court, No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s. BOBCARDS Ltd., Mumbai and their workmen, received by the Central Government on 29-1-2009.

[No. L-12011/45/2003-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

A. A. LAD, Presiding Officer

Reference No. CGIT-2/34 of 2003

Employers in Relation to the Management of
M/s. BOBCARD Ltd.

The Managing Director,
M/s. BOBCARD Ltd.

1st Floor, Shahid Bhagat Singh Road,
Colaba, Mumbai 400 001.

.....First Party

V/s.

Their Workmen

The General Secretary,
Bank of Baroda Employees' Union,
Goa. C/o. Bank of Baroda
Margo, Goa

.....Second Party

APPEARANCE

For the Employer : Mr. L.L. D'souza, Representative

For the Workman : Mr. M.B. Anchan, Advocate.

Date of reserving the Award : 17-6-2008.

Date of passing the Award : 17-12-2008.

AWARD

The matrix of the facts as culled out from the proceedings are as under :

The Government of India Ministry of Labour by its Order No. L-12011/45/2003-IR(B-II), dated 12th June, 2003 in exercise of the powers conferred by Clause (d) of sub-section (I) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Management of M/s. BOBCARDS Ltd., Mumbai in not regularizing the service of Shri Pradeep Shirodhkar, Peon of Margo Branch is legal and justified? If not, what relief the workman is entitled to?"

2. Claim Statement is filed by the General Secretary of the Union at Exhibit 8 making out the case that, the concerned Workman joined 1st Party as a temporary Peon in April, 1995 on daily wage of Rs.50. Said daily wages were increased to Rs.110 per day. Said was being paid to him on weekly basis at the end of the week. Though he worked as a Peon continuously from April, 1995 for more than 240 days, he was not confirmed. According to the Union, he was entitled for regularization in the employment of the 1st Party but he was not regularized. He made several requests to the 1st Party for his regularization orally as well as in writing by making correspondence from April, 1998 and July, 2000. Since Bank has not regularized him, Union approached Assistant Labour Commissioner (Central) in September, 2000 and requested to regularized the concerned workman. In the course of the conciliation proceedings Management, i.e. 1st Party, assured that, if it is permitted, it will regularize the concerned workman as and when recruitment policy is framed. Since the Management did not frame the recruitment rules, Union approached the Assistant Labour Commissioner (Central), Vasco da Gama, Goa and thereafter it framed its recruitment rules and it is alleged that, even then the concerned Workman is not regularized. So, it is prayed that, he be regularized and benefits of regular employee be given to the concerned workman.

3. This is disputed by the 1st Party by filing written statement at Exhibit 15 stating that, the Central Govern-

ment he is not the 'appropriate Government'. It is stated that, the Reference is not maintainable. It is stated that, the Company is engaged in the business of credit card activities and holds a licence of Non-banking Finance Company from the Reserve Bank of India. It stated that, the Company is neither controlled industry as specified by the Central Government and nor it carried on by/or under the authority of the Central Government. It is stated that, the 1st Party is registered under the provisions of the Indian Companies Act, 1956. It is further stated that, it has its own Memorandum & Articles of Association which confers extensive powers to the Directors of the Company to decide and direct as to how the Company should function. The Directors are also vested with powers to delegate their powers, authorities and discretion to any person. According to 1st Party, it is a separate legal entity it has its own constitution, powers and functioning is regulated by its Memorandum & Articles of Association. It is stated that, the 1st Party can sue and can be sued in its own name and hence the appropriate Government with regard to it would be the State Government and not the Central Government.

4. It is further stated that, the Union has no locus standi to raise the dispute regarding the concerned workman. Concerned Workman is the only member of the Union. Since Union has no locus standi to raise the dispute about the concerned workman it is stated that, Reference is not tenable and it cannot be an industrial dispute within the meaning of Section 2(k) of the Industrial Disputes Act, 1947. It is further stated that, the concerned Workman was engaged on daily wages. He was not appointed by giving appointment order. He cannot claim regularization in the establishment of the 1st Party. It is stated that, though the concerned workman worked for more than 240 days as a temporary employee, he cannot claim permanency, since the concerned workman was, appointed as a casual/temporary workman. It is denied that, he can get benefit because initially staff deputed by Bank of Baroda to work with the 1st Party. So it is submitted that, the claim made by the Union deserves to be rejected.

5. Rejoinder is filed by the Union at Exhibit 17 stating that, Reference is maintainable since Central Government is the appropriate Government and this Tribunal has jurisdiction. It is further stated that, now Recruitment Rules are framed by the 1st Party. Even wages in the pay scale is given to the employees. 2nd Party can get wages in the scale of Rs.2000-4000 and he can be regularized in the establishment of the 1st Party.

6. In view of the above pleadings, Issues were framed at Exhibit 20 which I answer as follows:

ISSUES	FINDINGS
1. Is reference maintainable in the present form?	Yes
2. Whether First Party prove	No

that, State Government is its appropriate Government?

3. Is Second Party entitled for regularization in the service of the First Party?

Yes

4. What order?

As per order below.

REASONS:

ISSUE NO. 1:

7. 1st Party states that, reference is not maintainable as Union has no authority and locus standi to espouse the cause of Pradeep Shirodkar. According to 1st Party, the concerned Workman, Pradeep Shirodkar, is the only member of the Union from the establishment of 1st Party. There is no resolution in the Union. It has no cause to espouse the point to regularize concerned workman in the employment of the 1st Party. Said Union has no proper support of the members of the Union. It cannot espouse the cause of the concerned workman. For that, 1st Party's Advocate placed reliance on the citation published in 2007 LLR page 386 where Delhi High Court in the case of M/s. Hotel Samrat Vs Government of NCT observed that, there was no evidence apart from the statement of the Secretary of the Union before the Tribunal that, he approached the Conciliation Officer to press for the cause. He also placed reliance on the citation published in 1975 Lab.I.C. page 1153 where Calcutta High Court in case of Deepak Industries Ltd. & anr. Vs. State of West Bengal & Ors. observed that, mere fact that, the said Union is registered under the Indian Trade Unions Act, is not conclusive proof to accept that, the workmen have given authority to the said Union to press for the cause. He also placed reliance on the citation published in 1970 Lab. LC page 574 where Apex Court while deciding the case of Workmen of Indian Express Newspaper Private Ltd. Vs. The Management of Indian Express News Paper Pvt. Ltd. where it was observed that, when single permanent employee of the Management is a member of the Union, it does not give power to said Union to espouse cause for such an employee. Whereas stand of the 2nd Party is that, there is no procedure to pass a resolution. Before the Labour Commissioner, Managing Director of the 1st Party vide letter dated 2-12-2002/8-1-2001 assured to consider the claim of the concerned Workman to regularize his employment. According to Union, that acceptance itself is sufficient to conclude that, Union was having sufficient background to espouse the cause and on that Union can espouse the cause of the concerned workman.

8. The citations on which the 1st Party relied were citations published in 2007 LLR page 386 Delhi High Court while deciding the case of Management of Messers Hotel Samrat vs. Government of NCT & Ors. observed that espousal can be expressed in many ways. Union who

appear as a witness has not uttered a single word that Union was not having sufficient number of workmen they are espousing the cause of the workman. He simply stated that, he met the Management in his general capacity. Under those circumstances it was observed that, it is not an industrial dispute. However, before us is a different case. Union states that, there was no practice of passing such a resolution. It is the case of the Union that, dispute was also before the Conciliation Officer and Management i.e. Vice President vide his letter dated 8-1-2001 assured to consider the claim of the 2nd Party to regularize him in the employment of the 1st Party as and when recruitment rules/policy is framed and at that time he will be engaged in existing terms. That means by share undertaking dated 8-1-2001 which is not disputed by the 1st Party, 1st Party has almost admitted that, the concerned workman is working with it and it can regularize him as and when it frame recruitment policy. The record and proceedings reveal that, by letter dated 2-12-2002 Managing Director informed that, it will not be possible for it to regularize the concerned Workman, copy of the same is produced by the Union with its written arguments at Exhibit 33. When this situation reveals that, there was a dispute before the Labour Commission (Central) Goa, and both were present there, it appears that, at that time, status of the Union was not challenged before Conciliation Officer. It also reveals that, the Vice President of the 1st Party undertook to consider claim of the Union to regularize Shirodkar i.e. the concerned workman in the employment after framing the recruitment policy and undertook that, Shirodkar will be continued on the existing terms. According to me, said is more than sufficient than what is expected in the above 2 rulings, on "espouser of the cause by the Union". Besides regarding the ground for which reference is sent by Labour Ministry, Government of India, is not under dispute. 1st Party is not challenging the working of the concerned workman with it as a casual worker and even it is not challenging, there was a demand to regularize him. When there was a demand to regularize him and when Vice President of the 1st Party undertook to regularize him after framing of the recruitment policy, in my considered view, the stand taken by the 1st Party that, Union has no proper representation to espouse the cause does not come in its way. So I observe that, reference is maintainable since Union has reason to espouse the cause of the concerned workman and I answer this point to that effect.

ISSUE NO. 2:

9. 1st Party further take a stand that, the State Government is the appropriate Government and not the Central Government. Whereas stand of the Union is that, the Central Government is the appropriate Government and not the State Government. Again for that, 1st Party placed reliance on the citation published in 1970 Lab.I.C. page 213 of Apex Court in case of Heavy Engineering Mazdoor Union Vs State of Bihar & ors. and citation published in

1989 (58) FLR page 161 of our Hon'ble High Court in case of Bombay Telephone Canteen Employees Association vs Manager Telephone Nigam Ltd. By these rulings 1st Party try to point out that, there must be deep and pervasive control and supervision of the Central Government when Central Government is the appropriate Government. It is also tried to point out that, even if shares were exclusively owned by the Government of India, it does not qualify the Company as an Agent of the Central Government though it is the public company and even if shares are exclusively owned by the Central Government it cannot be reckoned in the definition of the Central Government i.e. appropriate Government. But here evidence brought on record is rather different than the evidence which was brought on record in that case. Said is Credit Company. It is doing business of credit card centers in India and abroad through the Bank of Baroda. It is doing a non-Banking business. It is working under regulations of Reserve Bank of India. Reserve Bank of India is controlling authority. When Reserve Bank of India is the controlling authority, it is definitely under the control of the Government of India, Ministry of Finance. It has no connection or regulation with the State Government. In these premises I am of the opinion that, 1st Party who is doing such activities in providing finance to the needy persons under the rules and regulations of the Reserve Bank of India which is purely run on the guidelines of Government of India cannot be called as a subsidiary of any State but is a Company of the Government of India on which Government of India can have control. As far as claim of the first Party is concerned, it is not disputed that, it is running activities like Bank of Baroda, yet it cannot be called a Bank but its activities are controlled by the Government of India since Bank of Baroda is a nationalized Bank. Bank of Baroda is a nationalized Bank doing Banking business in the name of BOBCARDS LTD. When it is a subsidiary Company which is doing its activities under the rules of Bank of Baroda and when Reserve Bank of India has control over activities of Bank of Baroda and its activities, in my considered view, said a Company cannot called State Company but it should be recognized as a Company under the control of the Government of India. When it is coming under the control of the Government of India, 'Central Government' is the 'appropriate authority'. Moreover it is not pointed out by the 1st Party how activities and conduct of the 1st Party can be controlled activities under State Government? Definitely activities and conduct of 1st Party cannot be activities of the State Government as 1st Party is doing its activities in the name of M/s. BOB CARD Ltd. which is a subsidiary Company of Bank of Baroda, a Nationalised Bank. So I conclude that, Central Government is the appropriate Government and not State Government. Accordingly I answer this Issue in negative.

ISSUE NO. 3:

10. Union pray that, the concerned Workman be regularized in the employment of the 1st Party. Admittedly

concerned workman is working with 1st Party from April, 1995. Admittedly he worked for more than 240 days. Admittedly he worked without any interruption from 1995 which reveals that, there is permanent type of work. There is no complaint about his work. Only thing is that he worked on daily wages. Even letter of the 1st Party written to the Assistant Labour Commissioner (Central), Vasco-dagama dated 8-1-2001 reveals that, the concerned workman is working there in sub-staff cadre and 1st Party assured that it will regularize after framing of recruitment rules. When that, is the material on record about the services of the concerned workman which reveals he is working there from 1995 on daily wages and when work is available in my considered view, there cannot be any hitch in the way of the 1st Party to regularize him in the employment.

11. Besides it is not the case of the 1st Party that, he is not its employee and it is not the case of the 1st Party that, it cannot provide work to him. On the contrary record reveals that, there are number of employees who have same recruitment rules and it also framed service rules of employees working with 1st Party who are governed by the said rules. When that is the position and when work is available in my considered view, there cannot be any obstruction in the way of the concerned workman to regularize him in the establishment of the 1st Party.

12. It is not the case of the 1st Party that, there is no work for the concerned workman. Moreover it is not the case of the 1st Party that, he is surplus or that, work cannot be made available. Even it is not the case of the 1st Party that, he is called as and when work is available. On the contrary record reveals that, he is working continuously from 1995 and till he is in the employment of the 1st Party as a temporary employee. When he is a temporary employee and work is there then question arises why he cannot be regularized?

13. If we consider all this coupled with the case made out by both, I am of the opinion that, the concerned workman requires to be regularized on his post of Peon and must get benefits of regular employee.

14. So in view of the discussions made above, I conclude that, reference of the Union require to allow. Hence, the order.

ORDER

- (a) Reference is allowed,
- (b) 1st Party is directed to regularise the concerned workman i.e. Pradeep Shirodkar as a regular employee of it and give him the status, monetary and all other benefits of a permanent employee from the date of this order,
- (c) No order as to its costs.

A.A. LAD, Presiding Officer

Bombay

17th December, 2008

नई दिल्ली, 29 जनवरी, 2009

क्र.आ. 449.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधन के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 31/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12012/129/2003-आई आर(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 449.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 31/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the management of Canara Bank, and their workmen, received by the Central Government on 29-1-2009.

[No. L-12012/129/2003-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE SRI R G SHUKLA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHRAM
BHAWAN ATI CAMPUS, UDYOG NAGAR,
KANPUR**

Industrial Dispute No. 31 of 2003

BETWEEN

Ravindra Kumar son of Sri Sobaran Singh
House No. 5/385A
Naala Vanish Khar
Nai Ki Mandi Agra

And

The Deputy General Manager Canara Bank
Circle Office
Vipin Khand
Gomti Nagar
Lucknow.

AWARD

1. Central Government vide notification No. L-12012/129/2003-IR(B-2) dated 29-9-2003, has referred the following dispute for adjudication to this tribunal—

2. Whether the action of the Branch Manager, Canara Bank, Agra, in terminating the services of Sri Ravindra Kumar son of Sri Sobaran Singh with effect from 16-10-2002 is legal and justified? If not to what relief the concerned workman is entitled?

3. Briefly stated facts of the case are that the workman was employed by the management with effect from 18-4-92 on consolidated salary of Rs.300/- per month. It is the further case of the applicant that he was continuing

in the service of the opposite party and in the year 2002 was receiving salary at Rs.650/- per month when the opposite party terminated his services. It is also the case of the workman that he performed all the work of class IV employee. He has further asserted that he was attending the bank at 9.30 a.m. and did sweeping and dusting of counters and also tables besides placing ledger from one seat to another seat. The workman was also required to work on holidays and Sundays. It is also pleaded by the workman that the opposite party used to pay him wages through loose vouchers and that he was not given regular pay inclusive of other allowances for which he was assured by the officers of the branch. It is also alleged that despite rendering for more than 240 days of continuous service, the opposite party did not offer the workman notice, notice pay or retrenchment compensation nor following the provisions of 25G and 25H of the Act at the time of dispensation of his service on 16-10-2002. At any rate the action of the opposite party is unjustified and unfair and is liable to set aside. The workman is thus entitled for his reinstatement in the service of the bank with full back wages, continuity of service and all other consequential benefits.

4. On the other hand the claim of the workman has been refuted by the opposite party on a number of ground viz., that the claimant had never been appointed by the opposite party bank nor had rendered continuous service during the period 18-04-92 till 2002 nor the opposite party over paid him any fixed salary; that it is admitted by the bank that the claimant was engaged on requirement basis and to meet exigencies to procure water for coolers and to serve water for the staff and for the customers of the branch; that the claimant was engaged intermittently during the summer season only and thus his engagement was purely for specific period which automatically came to end by efflux of time; that since the workman has never been subjected to regular selection process framed by the bank, therefore, question of termination of his service does not arise at all; that it has also been pleaded by the opposite party that the claimant in all during the period 1992 to 2002 had worked intermittently for 183 days; that the engagement of the workman came to end by efflux of time and that the claim of the claimant also attracts provisions of section 2(oo)(bb) of the Act and lastly it is submitted that the claim of the claimant is devoid of merit and is thus liable to be rejected.

5. After exchange of pleadings between the parties contesting parties led oral as well as documentary evidence, whereas workman has examined himself as W.W.I management examined its witness as M.W.I in support of their claims and counter claims.

6. I have heard the arguments of the representatives of the parties at length and have also gone through record of the case carefully.

7. At the outset it may be pointed out that a bare perusal of the claim statement of the claimant would go to

show that he has not mentioned any provision of service rules under which he was engaged by the opposite party.

8. It is settled legal position that unless until breach of service rules are pleaded to the extent that the said provisions are against the provisions of the Industrial Disputes Act, 1947, provisions of the Act ipso facto would not come into play. In the instant case it has been pleaded and proved by the witness of the opposite party that there are set recruitment rules and the workman was never subjected to such rules, therefore, the claim of the claimant fully falls outside the ambit and scope of the term retrenchment as defined under the provisions of the Act. From the evidence of the workman it is quite obvious that he has palpably failed to prove his claim against the opposite party to the effect that the opposite party at any point of time had appointed him in terms of service rules and when the claimant had never been appointed in the service of the opposite party question of termination of his service by the opposite party does not arise at all. In Industrial Jurisprudence the provisions of the Industrial Disputes Act, 1947, are not akin to Bible or Ramayana which could be made applicable in all situation as finds place in the instant case. Therefore, the tribunal feels no hesitation in holding that it is not a case of retrenchment of the service of the workman, he cannot be held entitled for protection of other provisions of the Act as claimed by him.

9. In view of what has been indicated above there remains hardly any need to deal other points raised by the workman in his statement of claim as the same would be nothing but a futile exercise on the part of the Tribunal.

10. Lastly it is held that the workman has not been able to prove his claim before this tribunal by adducing acceptable evidence. He has also failed to establish the fact that he at any point of time had rendered continuous service of 240 days preceding 12 calendar months from the date of the alleged termination of his service. Therefore, the claim of the workman fails and he cannot be held entitled for the relief as claimed by him.

11. Representative for the opposite party has relied upon the law laid down by the Hon'ble Supreme Court of India reported in FLR 2002(93) 1979 The Range Forest Officer and ST Hadmini; 2001 LLR 243 of Hon'ble Allahabad High Court in the case of Lochan Prasad versus Executive Engineer PWD Nirman Khand Bareilly and another. The tribunal has given its anxious consideration to the laws cited above and finds that the law cited above apply with full swings to the facts and circumstances of the case.

12. In view of foregoing discussions, it is held that the workman cannot be held entitled for any relief and the reference is bound to be answered against him.

13. Reference is therefore answered accordingly.

R. G. SHUKLA, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ. 450.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ोदा के प्रबंधात्मक के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट (संदर्भ संख्या 35/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12011/114/2005-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 35/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 29-1-2009.

[No. L-12011/114/2005-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHRAM BHAWAN ATI
CAMPUS UDYOG NAGAR, KANPUR**

Industrial Dispute No. 35 of 2005

In the matter of dispute between—

Sri S K Kool
34/106 Chawal Mandi Chowk
Kanpur.

And

The General Manager
HRM & GA Bank of Baroda, Baroda Corporate Centre
C-26 G Block
Baroda Kurla Complex Bandra (E)
Mumbai.

AWARD

1. Central Government, MOL New Delhi, vide notification, No.12011/114/2005-IR(B-II) dated 19-09-2005, has referred the following dispute for adjudication to this tribunal.

2. Whether the action of the management of Bank of Baroda in denying pension and encashment of leave to Sri S K Kool is legal and justified? If not, to what relief the concerned workman is entitled.

3. In short the case of the workman is that he was served with a charge sheet dated 20-11-2001 by the disciplinary authority of the bank while he was in service of the bank. The allegations of charges were admitted by the workman in reply to it, therefore, the bank in exercise of powers conferred upon it under para 12(e) of the Bipartite

Settlement that is service conditions decided not to hold any further inquiry into the charges and the enquiry officer after considering the admission of the misconduct by the workman concerned held the charges as proved and submitted its finding before the disciplinary authority. The disciplinary authority after considering the admission of the misconduct tendered by the workman and also considering the fact that the charges stands proved against the workman decided to propose to impose the punishment vide order 24-7-03 to the effect the workman's removal from service with superannuation benefits as would be due otherwise and without disqualifications from future employment. And ultimately the said proposed punishment was finally imposed upon the workman. It is also the case of the workman that thereafter the workman approached the bank for release of his pensionary benefits such as gratuity, leave encashment, provident fund and pension but the opposite party bank instead of allowing him the above benefits simply allowed to him the amount of gratuity, employees contribution towards provident fund and for the remaining terminal benefits the opposite party bank after receiving repeated reminders in this regard informed the workman that the order passed by the disciplinary authority removing Mr. Kool from service with superannuation benefits is subject to rules governing the payment of superannuation. As per Pension Rules Persons removed from service forfeits his claim for pension. It is also the case of the workman that he is a pension optee under Bank of Baroda (Employees) Pension Regulations 1995, and as per memorandum of settlement dated 10-04-02 on disciplinary action, the workman is entitled for superannuation benefits being pension optee. It is also pleaded by the workman that in case an employee is refused for grant of pension in such case he is entitled for CPF but as would be clear from the pleadings of the parties the workman has not been paid his CPF after passing of the order dated 19-09-93, whereby the proposed punishment was confirmed by the disciplinary authority.

4. In this way the workman is entitled for superannuation benefits under the orders dated 19-09-03 passed by the disciplinary authority.

5. The opposite party on the other hand has contested the claim of the workman only on one point that the workman is not entitled for superannuation benefits under the orders of the disciplinary authority in accordance with the provisions of Bank of Baroda (Employees) Pension Regulations, 1995, according to provisions 21 of the same which empowers to forfeit pension of such an employee of the bank who has been removed from banks service on proved misconduct. On the basis of above pleadings the opposite party has prayed that the claim of the workman is not maintainable and is liable to be rejected in view of the provisions of Bank of Baroda (Employees) Pension Regulations 1995.

6. Apart from it management has accused the workman on a number of counts but the tribunal do not think it proper to detail the same as the controversy involved in the case for decision is as to whether in the light of the orders of the disciplinary authority workman is entitled for superannuation benefits as claimed by him or not.

7. After exchange of pleadings between the parties both contesting parties filed documentary as well as oral evidence in support of their respective case.

8. Tribunal has heard the arguments at length advanced before the representative for the contesting parties and have also perused the records of the case and relevant rules governing the grant of superannuation benefits in the light of the orders dated 19-09-03.

9. The first and foremost point which is required to consider in the instant case is as to whether the concerned workman is entitled for his superannuation benefits in view of final orders dated 19-09-03 passed by the disciplinary authority and the effect of the Bank of Baroda (Employees) Pension Regulations, 1995 in the light of Memorandum of Settlement dated 10-04-02 on Disciplinary action. The tribunal have considered the provisions of both the service conditions and after going through the same the tribunal is of firm opinion that the provisions of Bank of Baroda (Employees) Pension Regulations 1995, have no overriding effect over the settlement arrived at between the Banking Industry and Indian Bank's Association on 10-04-02, by name viz. Memorandum of Settlement dated 10-04-02 on the subject of settlement on disciplinary action which clearly provides that an employee of the bank can be removed from service of the bank on proved misconduct with superannuation benefits as would be due otherwise and without disqualification from future employment. It is also established from the record of the file, that the disciplinary authority has passed final orders against the workman removing him from the service of the bank with superannuation benefits as would be admissible to him otherwise and without disqualification from future employment. It is settled legal position that under disciplinary rules orders of the disciplinary authority are final and binding on employee and employer unless modified by the appellate authority and incase it is modified by the appellate authority, the same too becomes binding on both the sides.

10. From the records of the case it is quite clear that there is no evidence worth the name that the workman has ever challenged the orders of the disciplinary authority passed on 19-09-03, by way of preferring any appeal or that the orders of the disciplinary authority had at any point of time modified by the appellate authority and therefore the order of the disciplinary cannot be disturbed at all for any reasons without following the prescribed rules made in this behalf.

11. It may also be pointed out here that the representative for the management has not been able to satisfy the tribunal on the point as under which authority

or provisions governing the service rules, orders have been passed by the authority other than the disciplinary authority denying superannuation benefits to the workman.

12. Therefore, in view of the facts and circumstances and settled legal position, the tribunal feels no hesitation in holding that the action of the opposite party-bank in denying superannuation benefits to the workman is neither legal nor justified. Accordingly, it is held that the workman is entitled for his superannuation benefits under the final orders of the disciplinary authority passed on 19-9-03 and any other order passed by some other officer denying superannuation benefits stands set aside. Accordingly, the workman is held entitled for all termination benefits like pension, leave encashment, gratuity and commutation of pension subject to adjustment of any amount paid under these heads to the workman.

13. Therefore, as the workman is a retired person from the services of the bank, it is directed that the bank should settle the terminal dues of the workman on account of his superannuation from bank's service within three months from the date of publication of the award failing which the workman shall be entitled for pendentelite compound interest at the market rate over the amount became due to the workman.

14. Reference is, therefore, answered accordingly in favour of the workman and against the opposite party-bank in the above terms.

R. G. SHUKLA, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ 451.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चंडीगढ़, चं. 1 के पंचाट (संदर्भ संख्या 25/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12011/41/1997-आई आर(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 451.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Allahabad Bank, and their workmen, received by the Central Government on 29-1-2009.

[No. L-12011/41/1997-IR(B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
NO. 1, CHANDIGARH

Case I.D. No 25/2001

The General Secretary, All India Allahabad Bank Employees Steering Committee C/o Sh. S.C. Dewan, UCO Bank Employees' Association, C/o House No. 49, Sector 15-A, Chandigarh.

—Applicant

Versus

The Regional Manager, Allahabad Bank, Sector 17-B, Chandigarh.

—Respondent

APPEARANCES

For the workman : None

For the management : Shri B.K. Bagri

AWARD

Passed on : 11-11-08

Central Government vide-notification No. L-12011/41/97-(B-II), dated 10-1-2001 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Allahabad Bank represented through the Regional Manager, Allahabad Bank, Chandigarh in denying payment of salary to Sh. V.S. Chawla for the period 1-7-95 to 2-11-95 treating the period as unauthorized absence and deferring the increment by four months is just and legal? If not, to what relief is the workman entitled to?"

2. None is present on behalf of the workman. Learned counsel for the management is present. Workman has not ensuring his presence. The reference was referred by the Central Government in the year 2001. Despite opportunities have been given to the workman but he is not availing the opportunity of being heard. It is already 1.15 pm. At this stage, I have no option otherwise then to dismiss the claim of workman in reference for non-prosecution and return the reference to the Central Govt. as such. Accordingly, the reference is returned as such. Let the Central Government be informed. File be consigned

Chandigarh

11-11-08

G. K. SHARMA, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ 452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध

में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नई दिल्ली के पंचाट (संदर्भ संख्या 113/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12011/37/2000-आई आर(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 452.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 113/2000) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Allahabad Bank, and their workmen, received by the Central Government on 29-1-2009.

[No. L-12011/37/2000-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. II, RAJENDRA BHAWAN, RAJENDRA PLACE, NEW DELHI

I.D. No. 113/2000

Date: 25-11-2008

In the matter of dispute between :

The General Secretary,
All India Allahabad Bank Employees' Union,
Allahabad Bank,
Baroda House,
New Delhi.

...Workman

Versus.

The General Manager (P & A),
Allahabad Bank,
Head Office 2,
Netaji Subhash Road,
Calcutta-700001.

...Management

AWARD

Central Government, Ministry of Labour *vide* Order No. L-12011/37/2000-IR(B-II) dated 17-10-2000 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether by the transfer of Sh. S.K. Bawa, All India Treasurers of All India Allahabad Bank employees' Association, by the Management of Allahabad Bank allegedly against the provisions of Memorandum of Settlement dated 3-3-1980, was there any violation of para 535 of Sastry Award ? If so, what relief the union is entitled to?"

The workman is not attending the court for the last so many dates of hearing. It appears that he is no longer interested in the outcome of this I.D. In this situation No Dispute Award is passed in this Case. File be consigned to record room.

SATNAM SINGH, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ 453.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, चंडीगढ़ के पंचाट (संदर्भ संख्या 13/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12012/195/1997-आई आर(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 453.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 13/98) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 29-1-2009.

[No. L-12012/195/1997-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI GYANENDRA KUMAR SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO. 1, CHANDIGARH

Case I.D. No. 13/98

Sh. Nandi Ram, S/o Sh. Harmal Dass, R/o G-42, Pultary Area, Nilokheri, Distt : Karnal-132001.

...Applicant

Versus

The Regional Manager, Bank of Baroda, 564-R, Model Town, Near N.D.R.I., Karnal, Haryana-132001.

...Respondent

APPEARANCES

For the workman : Sh. M.L. Basoor.

For the management : Sh. Parmod Jain.

AWARD

Passed on : 17-10-2008

Government of India *vide* Notification No. L-12012/195/9-IR (B-II) dated 6-1-1998 referred the following industrial dispute for adjudication of this Tribunal :

“Whether the action of the management of Bank of Baroda in terminating the services of Sh. Nandi Ram Sub-staff w.e.f. 27-9-95 is legal and justified? If not, to what relief the said workman is entitled.”

On perusal of the pleadings and other materials on record, the grievances of the workman are that he applied through Employment Exchange, Nilokheri for the post of Sub-Staff in Bank of Baroda, Karnal. Being successful, he was appointed as Sub-Staff (Peon) by the bank vide appointment letter dated 27-3-95. He joined the services of the bank on 31-3-95. As per terms and conditions of the appointment letter he was on probation for six months and his appointment was subjected to the verification of his antecedents. Vide letter dated 27-9-95, his services were terminated on the ground that the qualification of the workman was not within the prescribed eligibility criteria for the post of Sub-Staff cadre in the bank and he concealed the actual qualification and have kept the bank in dark about the actual qualification possessed. No other ground for termination was mentioned in the termination letter. The workman raised an industrial dispute against his termination from the services and on failure of conciliation proceedings; the same was referred to this Tribunal for judicial adjudication. The main contention of the workman before this Tribunal is that his termination was illegal as no enquiry was conducted and no opportunity of being heard was given to him. It has also been contended by the workman that the order of termination was passed after expiry of probation period.

On the other hand, the contention of the management of respondent bank is that during probation period it is the right of the bank to terminate the services of the workman if the workman is not a suitable candidate for the bank.

The main question for determination before this Tribunal is whether a workman can be terminated during period of probation without holding an enquiry?

So far as the completion of probation period is concerned, I am of the view that even after the termination of probation period a workman cannot claim to be the permanent employee unless and until specific order is not passed by the prescribed authority on the basis of his work and conduct during the probation period. So this plea, is not available to the workman that his probation period was over and he could not have been terminated on the very ground. There is no specific order of the management of the bank to grant the permanent status of extension of probation period on record. When a workman is on probation, his services are subject to termination by the management. The workman can be terminated at any time without conducting enquiry if the management is not satisfied with the work, conduct and behavior of the workman and his services are no more required. Where the order of the termination during probation period is of stigmatic in nature, the services cannot be terminated

without holding an enquiry as prescribed under the departmental rules. This law is laid down by Hon'ble the Apex Court in several pronouncements. In *Inderpal Gupta Vs. Model Inter College, Thora FJR 1984 Supreme Court 431*, Hon'ble the Apex Court has held as under :

“It is well settled that if the order of termination of the service of an employee, including a probationer, carries a stigma, it has to fall to the ground unless it is preceded by an enquiry as contemplated in law. Therefore, where a person was appointed as a probationer and his services were terminated simpliciter under the condition of service by a letter to the effect that in view of the resolution of the managing committee of the institution he was informed that his services were terminated, but a reading of the letter of termination of service and the resolution of the managing committee which formed part of that letter clearly showed that it was merely camouflage for an order imposing the penalty of termination of service on the ground of misconduct clearly indicating that they bear a mark disgrace or infamy and that the employee was visited with evil consequences, the Lower Court erred in holding that the order of termination was an innocuous one and did not carry any stigma, and the employee should be declared to be continuing in service.”

The same view has been expressed by Hon'ble the Apex Court in *Nehru Yuva Kendra Sangathan vs. Mehbood Alam Laskar 2008(1) SCT 668*.

Thus, if the order terminating the services during the probation period is of stigmatic nature, the workman cannot be terminated without holding an enquiry for misconduct which amounts to stigma as per the rules of the department.

Now, the question before this Tribunal is whether verification of the eligible qualifications by the prescribed authority during the probation period will amount to enquiry for misconduct? In this case, after the appointment of the workman during the probation period, the prescribed authority has conducted a preliminary enquiry without issuing any notice to the workman asking relevant documents from the Principal of the College from which the workman submitted the certificate for qualification along with his application for the services. On disclosure by the Principal that the workman has higher qualification, the prescribed authority terminated his services. This Tribunal has to decide whether such termination on the ground for non-disclosure of authentic qualification will amount to misconduct?

Three Judges Bench of Hon'ble the Supreme Court in *State of Punjab and Others vs. Sukhwinder Singh AIR-2005 Supreme Court 2960*, while deciding the law laid down on the question of misconduct and simplicitor dismissal of a temporary employee from the services during probation period held that even if some kind of preliminary enquiry or

fact finding enquiry, is held in which the employee is not afforded an opportunity of hearing, the order of discharge of a probationer cannot be treated as an order of punishment as the appointing authority has to necessarily ascertain all the relevant facts before taking a decision whether the probationer should be retained in service or not.

Hon'ble the Apex Court in Sukhwinder Singh's Case (supra) in para 18 held as under :

"It must be borne in mind that no employee whether a probationer or temporary will be discharged or reverted, arbitrarily, without any rhyme or reason. Where a superior officer, in order to satisfy himself whether the employee concerned should be continued in service or not make inquiries for this purpose, it would be wrong to hold that the inquiry which was held, was really intended for the purpose of imposing punishment. If in every case where some kind of fact-finding inquiry is made, wherein the employee is either given an opportunity to explain or the inquiry is held behind his back, it is held that the order of discharge or termination from service is punitive in nature, even if bona fide attempt by the superior officer to decide whether the employee concerned should be retained in service or not would run the risk on being dubbed as an order of punishment. The decision to discharge a probationer during the period of probation or the order to terminate the service of a temporary employee is taken by the appointing authority or administrative heads of various departments, who are not judicially trained people. The superior authorities of the departments have to take work from an employee and they are the best people to judge whether an employee should be continued in service and made a permanent employee or not having regard to his Performance, conduct and overall suitability for the job. As mentioned earlier a probationer is on test and a temporary employee has no right to the post. If mere holding of an inquiry to ascertain the relevant facts for arriving at a decision on objective considerations whether to continue the employee in service or to make him permanent is treated as an inquiry for the purpose of imposing punishment and an order of discharge or termination of service as a result thereof "punitive character," the fundamental difference between a probationer or a temporary employee and a permanent employee would be completely obliterated, which would be wholly wrong."

In Ajit Singh and Others Vs. State of Punjab and Another AIR 1983 Supreme Court 494, Hon'ble the Apex Court held that the probation period gives time and opportunity to the employer to watch the work ability, efficiency, sincerity and competence of the servant and if

he is not found suitable for the post, the master reserves a right to dispense with his services without anything more during or at the end of the prescribed period, which is styled as period of probation. The mere holding of preliminary enquiry would not make an otherwise innocuous order of discharge for termination of service punitive in nature.

On perusal of entire materials on records, it is evident that while applying for the service workman showed his qualification as middle pass meaning thereby 8th pass. He also submitted the certificate of 8th class pass which is on record as Annexure M-5. The copy of concerned rules governing the recruitment of Sub-Staff is on record and rule 20.8 is relevant regarding the qualification for the post of Peons. This rule specifically mentioned that candidate should have 7th standard but he should not have passed 9th standard. Thus, concerned rules bars the appointment of a person who is 9th standard pass to the post of Peon. In Annexure M-1 which is the application form of the workman, he has shown his qualifications as Middle Pass but after his appointment when antecedents were verified by the prescribed authority from the College the college issued the certificate that Sh. Nandi Ram passed 9th Class in the year 1985 under Roll No. 9143.

The college issued the certificate that Sh. Nandi Ram passed 9th Class in the year 1985 under Roll No. 9143 and was promoted to class 10th and his name was cut off from the roll of class 10th on account of his long absence. The genuineness of this certificate is admitted by the workman. Thus, to get verified, the antecedents of the workman who has been appointed for the post of peon on probation within a period of probation in the right of the prescribed authority with a view to ensure whether the workman is suitable for the bank or not? It cannot be termed as punishment of misconduct. It was a contractual liability between the employer and the employee and the workman succeeded in getting the job in violation of the terms of proposal and if during probation period the prescribed authority has passed a simplicitor order that for want of disclosing the correct qualification he is terminated from the services, it cannot at all be termed the punishment of misconduct as per law laid down by Hon'ble the Apex Court in Sukhwinder Singh's Case (supra) and Ajit Singh's case (supra). As the order of termination dated 27-9-05 is not of stigmatic nature and cannot be termed as punishment on misconduct, the prescribed authority has rightly discharged the workman from service during the probation period on exercise of their rights they have as an employer.

It is true that in written statement and affidavit the management has written that not disclosing the real qualification is fraud against the employer and learned counsel has argued that order of termination is passed on the basis of fraud committed by the workman with the bank and such termination order cannot stand without a proper

enquiry. I am unable to accept the contention of the learned counsel because written statements and affidavits are filed by the management much after the passing of the order of discharge from service during probation period and this Tribunal has to gather the intention of management while passing the order of discharge and not thereafter. Accordingly, the term that workman committed the fraud with the bank will not be having any adverse effect on the intention of management while passing the order of discharge dated 27-9-95.

On the basis of the above observation, I am of the view that the management of bank of Baroda has rightly terminated the services of Sh. Nandi Ram in exercise of their right to discharge any workman during probation period on ground of suitability. Workman is not entitled to any relief. Let Central Government be informed. File be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ. 454.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एंड सिंध बैंक के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2, चंडीगढ़ के पंचाट (संदर्भ संख्या 1052/2K5) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12012/140/1997-आई आर(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 1052/2K5) of the Central Government Industrial Tribunal-cum-Labour Court No 2, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Punjab & Sind Bank and their workmen, received by the Central Government on 29-1-2009.

[No. L-12012/140/1997-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-II, CHANDIGARH

Presiding Officer : Shri Kuldeep Singh

Case I. D. No : 1052/2k5

Registered on : 11-12-1997

Date of Decision: 12-11-2008

Jaspal Singh Son of Manohar Singh, C/o R.K. Singh Parmar,
Q No. 35-G, Nangal Township, Ropar

.....Petitioner

VERSUS

The Assistant General Manager, Punjab & Sind Bank, G.T.
Road, Jalandhar

.....Respondent

For the Workman Sh. R.K. Singh Parmar,
Secretary, Punjab, INTUC

For the Management Sh. J.S. Advocate

AWARD

The following reference was received from Government of India, Ministry of Labour vide No.L-12012/140/97/IR (B-II), Dated 28-11-1997 by the CGIT-cum-Labour Court, Chandigarh and on the creation of this Tribunal the same was received by transfer on 19-9-2005, which reads as under :

"Whether the action of the management of Punjab and Sind Bank in terminating the services of Shri Jaspal Singh w.e.f. 21-9-96 is legal and justified. If not, to what relief the said workman is entitled and from what date?"

As per record of the file, on the receipt of notice of reference the parties appeared. The workman appeared through representative whereas the Management appeared through counsel. The workman filed his statement of claim to which the Management replied. The workman placed on record copies of some documents besides his affidavit. The Management tendered the affidavit of Mr. Balkar Singh, their Personnel and Industrial Relation Officer. Later on they substituted their witness and tendered the affidavit of Jaspal Singh Johar. They tendered certified true copies of the vouchers by which the payment was made to the workman by the Management.

Stated in short the claim of the workman is that he was employed by the Management as Peon on 8-2-1995 and he served them up to 21-9-1996 on which day the Management terminated his services by an oral order. The action of the Management was illegal since they did not issue him notice before terminating his services nor paid him the retrenchment compensation although he had put in more than 240 days service in 12 calendar months preceding the date of his disengagement. They further violated the provisions of Industrial Dispute Act, in short "Act", in failing to prepare a seniority list. They further failed in their duty in not deducting the Provident Fund from the workman. They also regularized the services of the juniors of the workman in service and even recruited fresh hands without providing the workman an opportunity to work. The work which was being done by the workman was of regular nature and thus the workman was entitled for regularization.

The Management has opposed the claim of the workman. They have denied that the workman was engaged

as a Peon. According to them the workman was engaged as a casual labour on daily wages due to exigency of service, as and when need arose. He was never appointed nor was considered for temporary job. He had also not worked as a Peon and in no case he served the Management for complete 240 days in continuity. They have denied that the services of the workman were terminated by them and stated that since there was no work available for a casual labour, therefore, the services of the workman were not engaged. As per the record the workman had served in the office of Management at G.T. Road, Phagwara from 8-2-1985 to 15-2-1985 then 19-2-1985 to 17-8-1985. He had worked in the Lajpat Nagar Branch, Jalandhar from 24-4-1986 to 5-7-1986, from 13-2-1989 to 2-5-1989 for 79 days and from 5-5-1989 to 20-6-1989. Thus he did not perform duties continuously for 240 days in any consecutive year. He was not entitled to notional breaks since he was engaged on daily wage basis. Their further claim is that seniority in the Bank is maintained at the State level in terms of settlement with the majority Unions of the Bank Employees and the workman being a casual labour on daily wage basis, he was not holding neither any post nor any recruitment process for engaging casual labour was undertaken by the Management. Thus there was no question of maintaining the seniority list. Their further claim is that the workman had not worked for 240 days continuously; therefore, he is not entitled to the protection under the Act. They have further denied that the workman was engaged as a Peon against some vacant post therefore, he was not entitled to regularization.

The workman appeared as a witness and proved his affidavit exhibit WW1. He also relied upon documents marked as A to G. In cross-examination he admitted that he was first engaged at Phagwara Branch where he served for six months continuously. He claimed that he had served the Management in Lajpat Nagar Branch, where he was recruited in the year 1993. He claimed that he was given appointment letter for working in Lajpat Nagar Branch which he does not possess. He, however, admitted that the vacancy was not notified in the Newspaper nor he had submitted written application for appointment. He further admitted that he was not getting salary on monthly basis although earlier in the year 1985 he was paid the salary on monthly basis and that he had served the Management continuously from 1993 to 1996 without any break. That he was getting wages @ Rs. 35/- per day. That he was relieved on 29-9-1986 and after his disengagement one Chaman Lal was engaged.

The Management examined Shri Jaspal Singh Johar as their witness who prove his Affidavit MW-1 and stated that as per record the workman had served the Management as Casual Labourer. He could not say whether the workman had served as Peon on regular basis from 1985 to 1993. He admitted that the Management had placed on record 43 vouchers and the working days shown therein do not

include Sundays and Bank Holidays. He further stated that since the work was not available, therefore, the workman was relieved. He further admitted that the Management did not prepare the seniority list before terminating the services of the workman. He was not called for work after his termination nor he was given notice before his disengagement as the same was necessary to be issued to a casual worker. He was also not entitled to any compensation.

The perusal of the record shows that the parties are not at variance on facts to a large extent. The Management has placed on record certified copies of vouchers and their witness admitted that those vouchers pertained to the payment made to the workman by the Management. The Management in their written statement claimed that the workman had served the Management from 2/1985 to 6/1989 intermittently but as per the vouchers placed on record by them it is clear that the workman had served the Management up to the year 1996. Thus, the claim of the workman that he had served the Management up to 9/1996 is supported by the documents placed on record by the Management. The witness of the Management J.S. Johar admitted that the workman was not paid for the Sundays and National Holidays. As per the vouchers produced by them the workman had been paid for 237 days for the period from 7-10-1995 to 31-8-1996. They have withheld the vouchers for September, 1995. The withholding of the record by the Management goes against them as the presumption is that if produced the same would have gone against them. Even otherwise, as per the record produced the workman had served the Management for 237 days 12 months preceding the date of termination of his services which did not include the Bank Holidays, National Holidays and the Sundays. These also do not include the working days for which the workman was paid during the month of September 1995. The Law is settled that a workman is entitled to the Sundays and other paid holidays for the purpose of completion of 240 days. In this regard I am supported by the authority of the Hon'ble Supreme Court of India reported as AIR-1986 S.C. (458). The vouchers produced by the Management does not show as to from which date to which date he was paid the wages. Sometimes he was paid for 5 days and sometimes for 3 days, 4 days and 6 days. There is sufficient evidence on record to hold that the workman had served the Management for 240 days before his disengagement and that the Management neither issued notice to the workman before the termination of his services nor paid him the wages for the notice period. He was also not paid the retrenchment compensation. The Management, therefore, violated the provisions of Section 25-F of the Act. As admitted by them they did not prepare the seniority list before the termination of the services of the workman. They have also failed to rebut the claim of the workman that the Management had engaged Chaman Lal after the termination of the services of the workman.

The Management, therefore, violated the provisions of the Act as they did not issue notice to him before the termination of his services nor paid him the wages for the notice period. They also did not pay him the retrenchment compensation although it is proved that the workman served the Management for 240 days preceding the date of termination of his services. The order of termination of services of the workman was, therefore, bad in law and the same is quashed.

The question now comes for consideration is as to what relief the workman is entitled to. As per his own statement the workman was not engaged after following the procedure required for recruitment. He admitted that there was no advertisement notice nor he had submitted written application for appointment. He also did not produce his appointment letter although he claimed that the same was issued. Thus, his engagement was not by a regular process of recruitment and can rightly be described as back-door entry. He is, therefore, not entitled for reinstatement. There is, however, evidence to show that he had served the Management for more than 10 years. The Management should have considered this fact and given him due compensation. By their conduct, the workman suffered and has prosecuted his claim for more than 13 years. Considering all these facts I am of the opinion that the workman is entitled to compensation which should also include the amount for the sufferings he and his family has undergone because of the conduct of the Management. Since the order of his disengagement has been quashed he is also entitled to the back wages. Taking all these facts into consideration, I order the Management to pay an amount of Rs. 1,00,000/- (Rupees one lakh only) as lump sum compensation to the workman. They are directed to pay this amount to the workman within three months after the publication of award failing which the workman shall also be entitled to interest on the said amount @ 9 per cent per annum from the date of Award. The reference is answered in these terms. Let a copy of the Award be sent to the appropriate Government for necessary action and file be sent to record after due compilation.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ. 455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एल आई सी आफ इंडिया के प्रबंधन के संबंध में निर्यातकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 15/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-17012/33/2001-आई आर(बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 455.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 15/2002) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the management of LIC of India, and their workmen, received by the Central Government on 29-1-2009.

[No. L-17012/33/2001-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SRI R.G. SHUKLA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, SHRAM
BHAWAN ATI CAMPUS UDYOGNAGAR, KANPUR

Industrial Dispute No. 15 of 2002

BETWEEN

Sri Vishwanath Dubey

San of late Ramcharan Dubey
Resident of 1/15 Chander Nagar
Dubey Bhawan
Rajmarg
Orai U.P.

And

The Divisional Manager
LIC of India
Divisional Office
16/98 Mahatama Gandhi Marg Kanpur.

AWARD

1. Central Government, MOL, New Delhi, vide notification No.L-17012/33/2001/IR-B-II dated 21-1-2002, has referred the following dispute for adjudication to this tribunal

2. Whether the action of the management of LIC of India in terminating the services of Sri Vishwanath Dubey with effect from 30-11-1995 is legal and justified? If not to what relief the concerned workman is entitled to?

3. Briefly stated facts of the case are that the workman is serving continuously under the opposite party with effect from 19-9-1961 and the applicant was appointed by the opposite party at the post of Development Officer. Being a vigil employee the applicant used to take part in trade union activities on account of which some employees of the opposite party were having animosity against the applicant an under conspiracy succeeded in getting transferred the applicant from Kanpur to Orai and under the orders dated 16-08-80 passed by the opposite party the co-employees get success when the services of the applicant were terminated. The applicant represented the matter against illegal termination and when under compelling circumstances the applicant approached

appropriate forum of court of law; the opposite party reinstated the applicant in the service at the post of Assistant and not as Development Officer. The applicant joined the post at Orai on 20-2-81. Applicant further alleges that he purchased NSC through an agent which was infarmed by the applicant to the opposite party for sending the details of NSC to Income Tax Department. After some days it was noticed by the applicant that the pass book related with NSC is forged one. Applicant contacted with the agent and extended threat that the matter will be reported to the police authorities there upon the agent informed the applicant that the amount of the applicant would be adjusted by him in near future. When the matter relating to the applicant was investigated by the opposite party it revealed that not only the case of the applicant was detected likewise other cases relating to other employees were detected. Due to grudge on the part of the officers of the opposite party, the applicant was served with a charge sheet dated 23-6-94. Without awaiting the reply of the applicant against the charge sheet, opposite party initiated the disciplinary proceedings against the applicant by appointing Sri S. C. Saxena, as enquiry officer who was having grudge against the applicant since the time when the applicant was posted as Development Office at Branch Office Orai of the opposite party where Sri Saxena was his branch manager. It is also pleaded that the rules of natural justice has not been following during the course of inquiry proceedings in as much as the applicant vide application dated 1-03-95 sought certain documents from the inquiry officer which were declined by the opposite party vide letter dated 10-3-95. Even the applicant was not provided reasonable opportunity to cross examine the management witnesses, enquiry officer used to write the answer of the management witnesses in twisted form. The applicant summoned Sri A. K. Shukla as defense witness but the opposite party under threat did not call defense witness and lastly it has been pleaded that during the inquiry charges have not been proved, therefore, he is liable to be reinstated in the services of the opposite party with full back wages, continuity of service and all consequential benefits attached with the post.

4. The opposite party contested the claim of the workman on a number of grounds denying the pleadings raised by the workman. On merit it has been pleaded that the workman opened a NSS Account no. 1100632 in the post office Orai on 6-3-91 and deposited only Rs. 1000 in the aforesaid account. The workman changed Rs. 1000 into Rs. 40000 by tempering in the NSS pass book and claimed 100% rebate for Rs. 40000 instead of Rs. 1000 which was actually deposited by him in the NSS Account in the tax calculation and its deductions made by branch office Orai in respect of his earning during the financial year 1990-91 and on the basis of tempered pass book he got the entry verified in the earning record sheet maintained by the office by the then AAO and in turn issued a fake rent

receipt favouring Sri Chawla @ Rs. 750 per month to enable him to claim rebate in respect of house rent paid, in his Income Tax Return by way of allurement. It has further been pleaded that the applicant claimed 100% rebate in income tax calculations by cheating and deductions made by the office by showing an amount of Rs. 20000 to have been deposited by him in the above NSS account on 13-3-92 whereas actually no amount was deposited by the applicant in the post office in the financial year 1991-92. In view of above, the applicant has cheated and defrauded the opposite party as well as Income Tax Authorities for his vested interest and has deprived the Government of India from its substantial revenue collection under the head of Income Tax. Whatever justification has been shown by the applicant are absolutely incorrect and the applicant cannot claim to be absolved from the serious nature of misconduct committed by him on the basis of agent's action and his above misconduct has been fully proved during the inquiry. On the basis of the action on the part of the applicant he was issued charge sheet dated 23-06-94, which was not replied by the workman within stipulated period therefore it was decided to hold inquiry against the workman by appointing independent inquiry officer who conducted the enquiry in accordance with the principles of natural justice and as per the LIC of India Staff Regulation, 1960. Full opportunity was given to the workman for his defense and he availed the same he was also provided full opportunity for producing documents in his defense by the enquiry officer and was also granted permission to inspect documents, therefore, there is no illegality in the conduct of inquiry and the enquiry officer has rightly proved the charges against the workman and also that the workman has rightly been awarded punishment of termination from the service of the LIC of India with effect from 30-11-95.

5. After exchange of pleadings between the parties both contesting party apart from filing of the documentary evidence have led oral evidence as well. Whereas the workman examined himself as W.W.1, management examined its witness as M.W.1.

6. The Tribunal has heard the arguments of the contesting parties at length and has also given its anxious consideration carefully to the records of the case.

7. First of all it will be seen as if the domestic enquiry conducted by the management against the workman is vitiated or not.

8. The tribunal does not find any force in the contention of the authorized representative for the workman that the workman was deprived of reasonable opportunity in his defence or he was not permitted to cross examine the witnesses produced by the management. After going through the proceedings of the inquiry tribunal find that the workman was given full opportunity by the enquiry in his defence. So far arguments that the application of the

workman summoning certain documents was not allowed by the enquiry is devoid of merit as from the record of the inquiry proceedings it stands fully proved that the enquiry officer has allowed the workman to inspect the documents called for by him. Records of enquiry proceedings further goes to establish the fact that he was allowed ample opportunity to examine the management witnesses. It is not the obligation either of the enquiry officer or the presenting officer to summon witness of workman. If at all the workman was interested to produce any witness in his support during the course of enquiry he was free to do so but at any rate he cannot be allowed to blame the enquiry officer on any count if he failed to produce his witness in the inquiry. Rather it was his obligation to produced best defence by producing witnesses at his own cost. Management / employer are not supposed to fill up the lacuna left by the workman himself for his defence. Therefore on the basis of opinion expressed above, it is held that the enquiry conducted by the enquiry officer is just, fair and legal.

9. Next it will be considered as if the report of enquiry officer suffers from infirmities and is liable to set aside. Tribunal has also considered this aspect of the matter in depth and has come to the definite conclusion that the enquiry officer has recorded a very rational finding after considering the entire material and evidence of the parties available on record of the enquiry and is of definite conclusion that the finding of the enquiry officer is perfectly legal and valid and cannot be held to be vitiated. Having concluded that neither the enquiry proceedings are vitiated nor the finding of the enquiry officer, therefore, the same remains intact.

10. Lastly it will be seen if the punishment awarded to the workman by the opposite party is shockingly disproportionate or not. On this point it is settled legal position that where proceedings of enquiry and findings of the enquiry officer is found legal and valid, courts/tribunal are not competent to interfere with the decision of the disciplinary authority. Therefore under these circumstances the provisions of section 11-A of the Act are not applicable in such cases.

11. At any rate the misconduct committed by the workman is of grave nature and also amounts to loss of confidence on his part. If such persons are allowed to be retained in the services of the opposite party which is a financial institution confidence reposed by the public would certainly be shaken. Therefore, from this point of view tribunal is of the firm opinion that the punishment awarded to the workman is perfectly just, legal and appropriate and need no interference on the part of the Tribunal.

12. For the reasons discussed above, it is held that the action of the management of Life Insurance Corporation of India in terminating the services of the workman with

effect from 30-11-95 is legal just and fair and the workman is held entitled to no relief.

13. Reference is therefore, answered in negative against the workman and in positive in favour of the management.

14. Reference is answered accordingly.

R. G. SHUKLA, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ. 456.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण ऐरनाकुलम के पंचाट (संदर्भ संख्या 12/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-12012/117/2005-आई आर (बी-II)]

राजेन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 456.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 12/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial dispute between the management of Indian Bank, and their workmen, received by the Central Government on 29-1-2009.

[No. L-12012/117/2005-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

Present: Shri. P.L. Norbert, B.A., LL.B., Presiding Officer
(Friday the 26th day of December, 2008/ 5th Pausa, 1930)

I.D. 12 of 2006

Workman : Shri.K.M.Martin,
Kanassery House,
C/o.A.A.Ibrahimkutty, Arimbassery,
House, Thrikkakara P.O., Kochi.
By Adv. C.S.Ajith Prakash.

Management : The Deputy General Manager, Indian
Bank, Circle Office,
3575, 38/ 1672-B & C, Chittoor Road,
Pullepady, Ernakulam.

By Adv.Sri.S.Easwaran.

This case coming up for final hearing on 17-12-2008, this Tribunal on 26-12-2008 passed the following.

AWARD

This is a reference made under Section 10(1)(d) of Industrial Disputes Act. The reference is :

"Whether the action of the management of Indian Bank in illegal termination by way of retrenchment of workman Shri.K.M.Martin is correct or not? If not what relief the workman is entitled?"

2. The facts of the case in brief are as follows :— According to the claimant Sri.K.M.Martin he was appointed by the management bank as temporary driver to Chief Manager of Ernakulam Main Branch on 3-3-1991. Thereafter he was appointed as driver to Deputy General Manager In Zonal Office, Pallepady, Ernakulam on 24-11-1992. His salary was revised by bank from time to time. While so, he made representations for regularising his service. Instead of considering his representation favourably the management terminated him from service w.e.f. 1-6-2005. The workman was working in the bank for 14 years. The car he was driving belonged to the bank. The car was driven for official purposes of the officer concerned. The worker was paid by the bank. He was also engaged by the bank for discharging the duties of Peons whenever they were on leave. Thus there is employer-employee relationship between the parties. As per circular dated 14-11-1995 of the bank, personal drivers of officers can be considered for appointment as regular sub-staff. The workman has worked continuously for more than 240 days every year. However without notice or retrenchment compensation the management terminated the service of the workman. He claims that he is entitled for reinstatement and regularisation.

3. According to the management the claimant was never appointed by the management bank and he is not a workman within the definition of S.2(s) of I.D. Act. Hence the reference is not maintainable. He was appointed as personal driver by Chief Manager of Ernakulam Main Branch in his personal capacity. The bank has not terminated his service. There is no relationship of master and servant between the parties. As per guidelines issued by Ministry of Finance dated 30-09-1978 Sub-staff of the bank can be recruited only through employment exchange. As per order of Ministry of Finance dated 23-06-1997 personal drivers of executives of Public Sector Banks are not employees of the bank and they are not eligible for absorption. The personal drivers of high level officers are paid salary by the officers who engage personal drivers and such payment is re-imbursed by the bank to the officers. The bank has no administrative or disciplinary control over him. The claimant has not furnished details of continuous work of 240 days. Hence he cannot claim protection of I.D. Act. He is not entitled to any relief.

4. In the light of the above contentions the following points arise for consideration:

1. Is he an employee of the bank?
2. Is the claimant entitled for regularisation?
3. Is he entitled for reinstatement?

4. Is he entitled to the protection under Section 25F of I.D. Act?

The evidence consists of the oral testimony of WW 1 and documentary evidence of Exts.W1 to 11 on the side of the workman and Court Exhibits X1 to X3 and no evidence on the side of the management.

5. Point No.1:— It is the contention of the claimant that he is an employee of the bank and he was appointed by the bank as a temporary driver to Chief Manager initially and then DGM. But in the box he admits that he did not receive any appointment order (WW1). His contention in the claim statement goes against his contention in his representations submitted to the management requesting for regularisation (Exts.W-9 and 11) wherein the only contention is that he was a personal driver of the officers and has no case that he was appointed by the bank as a temporary driver or otherwise. Thus the contention of the claimant in claim statement and representations are inconsistent. He has no definite stand. It was submitted by the learned counsel for the workman that even if he was engaged as personal driver initially he was treated by the management as an employee of the bank and he was paid by the bank. He was discharging the official duties of a driver by taking the officers to different places for official purposes. The car was owned by the bank. The repairs and maintenance of the car were carried out through him. Payments to automobile workshop and spare parts shop were made through him. Besides he was utilised as a Peon whenever any peon was on leave. He was working like a regular employee. But he was denied benefits of a regular employee. To prove that he was paid by the bank he has produced certain vouchers and called for three vouchers from the bank. They are Exts.W2 to 4, 10 and X1 to X3. Exts.W2 vouchers are in respect of batta paid for taking Zonal Manager to Kunnankulam, Guruvayoor and Kodungallur and labour charges paid for changing dynamo of the car. The vouchers are signed by the claimant acknowledging receipt of the amount. Ext.W3 are vouchers showing payment for repair to the official car and batta given to the claimant for taking DGM to Perumbavoor in the year 2000. Ext. W 4 is another voucher signed by the claimant on 28-02-2005 acknowledging receipt of batta for trip to Guruvayoor with DGM. Ext.W10 are 3 vouchers of 2000 regarding payment of courier service charges paid through the claimant and payment of salary to the workman by way of re-imbursement to DGM. Ext.X1 is voucher showing payment made through the claimant for serving tea in DGM's cabin in 2005. Ext. X2 is another voucher regarding batta paid to the claimant in 2005 for taking DGM to Guruvayoor. Ext.X3 is voucher of 2002 regarding payment made to the claimant for trip to Airport. Besides two bills are produced by the claimant, Exts.W7 and 8 which are bills of 2005 for purchase of spare parts of the car. The bill was prepared by the Merchant, Marikar Industries and

checked by the claimant. These vouchers and bills show that the claimant was paid batta for trip to different places with executives and bill amounts for purchasing spare parts and towards repair of the car by the bank. Vouchers are signed no doubt by the claimant and payment is no doubt made by the bank, but as batta for trip to different places with DGM. It is not disputed that high level officers of the bank are allowed to engage personal drivers and payments made by such officers to personal drivers, are re-imbursed by the bank. The vouchers do not disclose anything more than that. Assuming that they are direct payments made by the bank to the claimant still other than the vouchers mentioned above there are no other records to show that bank has any direct dealing or control or supervision over personal drivers of executives. The Executives who engage personal drivers are directly exercising control over such persons. There is no case for the workman that the bank has taken any disciplinary action against him so far. Moreover the case of the workman as disclosed in his representations Ext. W-9 and 11 is that he was engaged only as a personal driver of Executives. Ext. W-6 certificate of Regional Manager is also to the same effect. It is only when the dispute was raised that an alternate contention is taken by the claimant that he was treated like an employee of the bank and hence there is master-servant relationship between the parties. It is only a subsequent thought with a view to stake a claim against the bank. He joined service as a personal driver with open eyes and there was no promise at the time of engaging that in course of time he will be made a regular employee of the bank. It is for the bank to consider him for regularisation if law permits and guidelines of the bank allow. There is no provision as per recruitment rules and guidelines of the bank to absorb personal drivers. The Government, by order dated 23-6-1997, has negated the proposal of the bank and unions in the Bipartite Settlement to regularise personal drivers. The evidence reveals that he was only a personal driver of the executives, and not an employee of the bank.

6. The learned counsel for the claimant relied on the decision reported in *Bank of Baroda v. Ghemarbhai Harjibhai Rabari* 2005(2) Supreme 628 to canvass for the position that in the absence of rebuttal evidence the case of the claimant has to be accepted. In the reported case the workman claimed to be a driver employed by the bank who had been working continuously for more than 240 days. The bank contended that he was never appointed by the bank but as per a scheme of the bank a car was allotted to an Executive and it was the responsibility of the executive to appoint a driver for the vehicle. The salary paid by the executive concerned is reimbursed by the bank. Such a person is not an employee of the bank. It was held that the worker had produced three vouchers showing that he was paid wages by the bank and he had also relied on a register wherein his signature was obtained by the bank acknowledging the payment. He had also given evidence

orally that he had worked continuously for more than 240 days prior to his termination. In view of the established facts and in the absence of rebuttal evidence (no evidence at all) on the part of the bank the case of the worker was accepted. But so far as the instant case is concerned, the facts and evidence are different. He joined service as personal driver of the Executive (Exts. W9 & 11). His case in the chief examination is that his last drawn salary is Rs.2750 and the same was paid by the bank. Vouchers Exts.W2 to 4 and X1 to X3 are in respect of payment of batta paid to the workman for taking executive to different places and repair charges of vehicle. Ext. W-10 contain a debit slip relating to reimbursement of driver's salary of Rs. 2,100 to DGM. There is no record to show that salary was paid to the workman by the bank. The workman has no consistent case. In Exts. W9 & 11 he would say that he was a personal driver of the Executives. But in the claim statement his case is that he was appointed as a temporary driver to the Chief Manager and subsequently transferred and appointed as driver to the Deputy General Manager. These contentions are mutually exclusive. There is no appointment order and no records to that effect. On the other hand Ext. W6 certificate issued by Regional Manager shows that he was only a personal driver. So also there is no evidence regarding continuous service of 240 days. The bank has denied such continuous service in the written statement. Considering the above factual context the decision relied on by the learned counsel for the workman can have no application to the case on hand.

7. Point No. 2 :—The case of the claimant is that he was appointed as a temporary driver to the Chief Manager of Ernakulam Main Branch initially and thereafter to the Deputy General Manager of the Zonal office. But the management denies this contention of the claimant. According to the management he was only a personal driver of the officers of the bank. The claim for regularisation is made on the basis of a Bipartite Settlement dated 23-7-1994 and a circular of the bank dated 18-8-1994 (Ext. W1). As per the circular personal drivers of officers who were working either on 23-7-1994 or prior to that and who had completed 5 years' continuous service are to be considered for absorption as driver along with eligible regular sub-staff of the bank. It is contended by the learned counsel for the workman that since 1991 the workman was a personal driver. He has completed more than 5 years' continuous service and is eligible for regularisation. However the bank did not consider his representations, Exts. W-9 and 11 but terminated him from service in the year 2005. In Exts. W-9 and 11 his contention is that he was appointed as a personal driver to Zonal Manager as well as Chief Manager of Ernakulam Branch and other officers. Ext. W-6 is a certificate issued by Regional Manager certifying that the claimant had been working as personal driver of the Regional Manager for the last 5 years as on 27-5-2000. Exts. W2 to 4, W-10 and X1 to X3 are vouchers signed by the workman.

But they are of the year 1999, 2000, 2002 and 2005 only. No voucher prior to 1999 is before the court. Exts. W7 and 8 are bills of purchase of spare parts of the car issued in the name of Dy. General Manager and it was only checked by the workman. They are also of the year 2005. There are no records produced or summoned to prove that prior to 1995 the claimant had worked whether as personal driver or in any other capacity. Therefore even if Ext. W-6 certificate issued by Regional Manager is accepted, he would have worked only from 27-5-1995 onwards. As per the Bipartite Settlements and circular (Ext. W1) and letter of Assistant General Manager (Personnel) to Zonal Manager dated 14-11-1995 (Ext. W5) the workman should have been working on or before 23-7-1994 in order to be eligible for consideration for absorption as a driver. Assuming for the sake of argument that the workman was a personal driver of officers since 3-3-1991 as claimed by him still as per the subsequent order of the government he is not eligible for absorption. The management has produced an order of the Ministry of Finance dated 23-6-1997 issued to the Chief Executives of all Public Sector Banks regarding absorption of personal drivers engaged by the Executives of the Bank. As per that order of the Government the personal drivers of Executives cannot be treated as employees of the bank, that they are paid by the executives out of the allowances granted by the bank to the executives, that there is no relationship between personal drivers and banks, that there is no question of absorption of such personal drivers in banks and drivers can be recruited only through regular recruitment channels. However cases in which appointment orders have been already issued, may not be re-opened. This order will supersede all previous orders in this regard. As per Ext. W1 circular of the bank the claimant should have worked as personal driver either on 23-7-1994 or prior to that. This position continued up to 23-6-1997 till the order of the government. Thereafter no personal drivers can be considered for absorption. The drivers can be appointed only through selection as per recruitment rules and norms. I have already mentioned, that there is no evidence to show that the claimant was in service as on 23-7-1994 or prior to that. He made representations for absorption only in 2000 and 2005 (Exts. W-9 and 11). In either case he is not eligible for regularisation as driver of the management.

3. Points 3 & 4 :— There is a contention that the claimant has been working continuously for more than 240 days every year and he has completed 14 years of service. Unless the claimant proves continuous service of 240 days preceding retrenchment he cannot get the protection of S.25-F of I.D. Act. The burden is on him to prove the same. Other than the vouchers mentioned above there is no other record regarding continuous service of 240 days. He was terminated from service on 1-6-2005. For want of records it is not possible to say that he has worked continuously for 240 days in any year much less preceding his termination

from service and therefore he cannot claim benefit of S.25-F of I.D. Act. Since the claimant was not an employee of the bank but only a personal driver of Executives the claim for reinstatement also cannot stand.

In the result an award is passed finding that the action of the management in terminating the service of the workman Sri K.M. Martin is legal and justified and he is not entitled for any relief.

The award will come into force one month after its publication in the official gazette.

Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 26th day of December, 2008.

P. L. NORBERT, Presiding Officer

Appendix

Witness for the workman

WW1 6-11-2007 Sri. Martin K.M.

Witness for the Management : Nil

Exhibit for the workman

- | | | |
|-----|------------|---|
| W1 | 18-8-1994 | Letter from the Assistant General Manager (PL) Madras to Zonal Manager, Ernakulam. |
| W2 | 14-9-1999 | Voucher of Indian Bank, Zonal Office. |
| W3 | 28-2-2005 | Voucher of Indian Bank, Zonal Office. |
| W4 | 27-10-2000 | Voucher of Indian Bank, Zonal Office. |
| W5 | 14-11-1995 | Letter from the Assistant General Manager Madras to the Zonal Manager, Ernakulam. |
| W6 | 27-5-2000 | Certificate issued by Regional Manager, Ernakulam. |
| W7 | 30-4-2005 | Invoice of Marikkar Industries. |
| W8 | 26-5-2005 | Invoice of Marikkar Industries. |
| W9 | 9-5-2000 | Reminder letter by K. M. Martin to the Zonal Manager, Ernakulam. |
| W10 | 31-10-2000 | Courier receipt-copy. |
| W11 | 23-05-2005 | Representation submitted by workman to the Chairman and the Managing Director, Indian Bank. |

Exhibit for the management : NIL

Court Exhibits.

- | | |
|-----|-----------------------------------|
| X-1 | Voucher Receipt dated 10-5-2005. |
| X-2 | Voucher Receipt dated 28-2-2005. |
| X-3 | Voucher Receipt dated 25-10-2002. |

नई दिल्ली, 29 जनवरी, 2009

का.आ. 457.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार 508, आर्मी बेस वर्कशॉप, इलाहाबाद के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 24/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-1-2009 को प्राप्त हुआ था।

[सं. एल-14011/9/98-आई आर (डीयू)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 24/99) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of 508, Army Base Workshop, Allahabad and their workmen, which was received by the Central Government on 29-01-2009.

[No. L-14011/9/98-IR (DU)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SRI R. G. SHUKLA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM-LABOUR COURT, SHRAM BHAWAN
ATTI CAMPUS, UDYOG NAGAR, KANPUR
INDUSTRIAL DISPUTE NO. 24 OF 1999

BETWEEN

General Secretary,
Defence EME Employees Union, Allahabad,
586/74A/25-B Dalei Ka Pura,
Allahabad

AND

The Commandant & MD,
508, Army Base Workshop,
Allahabad Fort,
Allahabad.

AWARD

1. Central Government vide notification No. L-14011/9/98-IR(DU) dated 4-2-99 has referred the following dispute for adjudication to this tribunal—
2. Whether the action of the management of 508, Army Base Workshop, Allahabad in awarding punishment to TN 4357 Sri Chunni Lal vide their order No. 21206/457-CL/Est. Ind. dated 31-12-96, is legal and justified? If not to what relief the workman is entitled?

3. It is unnecessary to given full facts of the case and to consider the merit of the case as in the instant case the union after availing of repeated opportunity have palpably failed to adduce evidence in support of his claim as a result of which the tribunal debarred the union from adducing evidence vide order dated 6-9-06. Therefore it is also unnecessary to discuss the case of the management and evidence led by them as it is a case of no evidence on behalf of the union raising the dispute. Therefore, the reference is bound to be answered against the union for want of evidence and proof.
4. For the reasons discussed above, it is held that the union raising the dispute is held entitled to no relief for want of evidence and proof.
5. Reference is answered accordingly in negative against the union.

R. G. SHUKLA, Presiding Officer

नई दिल्ली, 29 जनवरी, 2009

का.आ. 458.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैन्ट्रल बैंक आफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट (संदर्भ संख्या 28/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-01-2009 को प्राप्त हुआ था।

[सं. एल-12012/99/2007-आई आर (बी-II)]

राजेंद्र कुमार, डेस्क अधिकारी

New Delhi, the 29th January, 2009

S.O. 458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 28/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the Industrial Dispute between the management of Central Bank of India and their workmen, received by the Central Government on 29-1-2009.

[No. L-12012/99/2007-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE SRI R. G. SHUKLA PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, SHRAM BHAWAN ATI
CAMPUS, UDYOG NAGAR, KANPUR.
INDUSTRIAL DISPUTE NO. 28/2008

BETWEEN

Sri Anil Kumar son of Sri Shanker Lal,
R/o Tedhi Pulia Behind Primary School,
Balmiki Basti, Post Jamuna Kinara,
Hathras Road, Agra. U.P.

AND

The Regional Manager,
Central Bank of India,
Regional Officer,
Sanjay Place,
Agra, U.P.

AWARD

1. Central Government Ministry of Labour, New Delhi, vide Notification No. L-12012/99/2007-IR-(B-II) dated 31-12-2007, has referred the following dispute for adjudication to this tribunal—
2. Whether the action of the management of Central Bank of India, Agra in terminating Sri Anil Kumar Sweeper, Central Bank of India, Sikandara, Branch Agra from the service with effect from 20-07-04, and at the same time appointing a junior person is legal and justified? If not to what relief the workman concerned is entitled?
3. In the instant case after receipt of the reference order from the Ministry registered notices were issued twice to the contesting parties from the tribunal but after availing of sufficient opportunities the workman neither put his appearance nor filed his written statement in support of his claim. Whereas the authorized representative put his appearance and filed letter of authority on behalf of the bank on 5-8-08. It thus appears that the workman is not interested in prosecuting his case and accordingly the reference is liable to be answered against the workman for want of pleadings and proof.
4. In view of above, the tribunal has no option but to hold that the workman is not entitled for any relief for want of pleadings and proof and the reference is accordingly decided against the workman and in favour of the management, holding that their action in terminating the services of the workman with effect from 20-07-04 is legal and fair. Second part of the reference order is also held to be decided against the workman for the reasons given above.
5. Reference is answered accordingly.

R. G. SHUKLA, Presiding Officer

नई दिल्ली, 30 जनवरी, 2009

का.आ. 459.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बिहार श्रेणीय ग्रामीण बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, औद्योगिक अधिकरण, पटना के पंचाट (संदर्भ संख्या 28/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-01-2009 को प्राप्त हुआ था।

[सं. एल-12012/73/2007-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 28/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Patana as shown in the Annexure, in the Industrial dispute between the management of Bihar Kshetriya Gramin Bank, and their workmen, received by Central Government on 30-01-2009.

[No. L-12012/73/2007-IR-(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, SHRAM BHAWAN, BAILEY ROAD, PATNA

Reference Case No. 28(C) of 2007

Between the management of Bihar Kshetriya Gramin Bank, Head Office, Bhagat Singh Chowk, Munger (Bihar) and their workman Sri Kundan Kumar Mishra, represented by Sri B. Prasad, President, Bihar Provincial Gramin Bank Employees Association, Exhibition Road, Patna.

For the management : Sri Shekhar Prasad Singh Sr. Manager(PAD), Management Representative.

For the Workman : Sri B. Prasad, President, Bihar Provincial Gramin Bank Employees Association, Exhibition Road, Patna.

Present : Vasudeo Ram, Presiding Officer, Industrial Tribunal, Patna.

AWARD

Patna, dated the 20th January, 2009.

By adjudication order No. L-12012/73/2007-IR(B-I) dated 17-9-2007 the Government of India, Ministry of Labour, New Delhi in exercise of the powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called 'the Act' for brevity) referred the following dispute between the management of Bihar Kshetriya Gramin Bank, Head Office, Bhagat Singh Chowk, Munger (Bihar) (hereinafter called 'the Bank' for brevity) and their workman Sri Kundan Kumar Mishra (hereinafter called "the workman" for brevity) represented by the President, Bihar Provincial Gramin Bank Employees Association, Exhibition Road, Patna for adjudication on the following:

"Whether the action of the management of Bihar Kshetriya Gramin Bank in terminating the services of Sri Kundan Kumar Mishra without complying

Section 25F of the I.D. Act and not reinstating and regularising him in service, is fair, legal and justified? If not, to what relief the concerned workman is entitled to?"

2. The parties appeared on notice and filed the statement of claim and the written statement respectively. The contention of the workman is that he had been appointed on 1-2-1995 by the management of the than Bhagalpur-Banka Kshetriya Gramin Bank to discharge the duties of a Sweeper-cum-messenger at Dariapur Branch of the Bank. He used to perform the duties from 9 A.M. to 5 P.M. sometime beyond that as per requirement of the Bank. He was initially paid wages @ Rs. 5/- per day which was gradually raised to Rs. 44/- per day. He was paid wages mostly on monthly basis through Bank's Debit Vouchers. In the year 2005 following a Central Government Notification three Regional Rural Banks (RRB in short) sponsored by UCO Bank namely Bhagalpur-Banka Kshetriya Gramin Bank, Munger Kshetriya Gramin Bank and Begusarai Kshetriya Gramin Bank were amalgamated and was renamed as Bihar Kshetriya Gramin Bank with its headquarter at Munger. The Chairman of the then Munger Kshetriya Gramin Bank was made chairman of the amalgamated Bank. Further the case of the workman is that the Chairman of the Bank in utter violation of the law and in most arbitrary manner instructed the Branch Managers to terminate the services of the workman. Accordingly the services of the workman was terminated from 16-9-2006. On the request of the workman the Union took up the matter with the management but the management did not concede/consider their grievances and thereafter the Union raised industrial dispute but the conciliation proceedings ended in failure due to non-compromising attitude of the management. Thereafter the dispute was referred for adjudication. According to the workman termination of his services is covered under Section 2(00) of the Act. The management violated the mandatory provisions of Section 25F of the Act and thus the management resorted to unfair labour practice as per Schedule-V of the Act. Further, the contention of the workman is that he worked for over ten years under the management and is in the midstream of his life having no other means of livelihood. According to the workman the action of the management in terminating the services of the workman, not reinstating and regularising his services in the Bank is neither legal nor justified. The workman claims that he be reinstated with back wages and his services be regularised as full time sweeper-cum-messenger.

3. The contention of the management is that Bihar Kshetriya Gramin Bank (hereinafter called 'the Bank' for brevity) has been created under the Regional Rural Banks Act, 1976 (in short RRB Act) and as such is guided by the directions issued by Central Government in regard to policy matters involving public interest in discharging of its functions. The Central Government issued guidelines through

NABARD about strength of manpower of the Bank and the circulars issued by NABARD in that connection is binding on the Bank management. Further, according to the management the appointment of any employee without following the procedures of appointment and without observing the rules of reservation is treated as back-door appointment and such employees. Further, the management contends that as per Circular No. DO-No. F4-27/75-AC dated the 26th November, 1975 no peon or his equivalent by whatever designation called, would be employed by RR Banks. The services of the employees so appointed was directed to be dispensed with without delay. The representatives of Kshetriya Bank approached the head Office for employment of Sweepers and the matter was placed before the Board of Directors. The Board of Directors decided to authorise each branch to spend Rs. 2/- only from miscellaneous account every day on cleaning. It was also decided that a man can not work more than seven days and the person so engaged would not claim for appointment on that basis. The part-time-sweeper-cum-messenger who were in service on 22-2-1991 and completed 240 days continuous service thereafter were treated as regular employees w.e.f. 2-2-1991. The management further contends that this workman was engaged on daily wages without following the norms and procedures of appointment and his engagement was against the circulars of NABARD and Central Government as there was already permanent sub-staff in the category in the branch. There is no sanctioned post in the Bank as daily wages do not come within the purview of Service Regulations of the Bank. According to the management this claimant is not a workman as defined u/s.2(S) of 'the Act' and as such the reference itself is bad in law. The workman is also not the member of any union. The dispute raised by the claimant is also not an industrial dispute defined under Section 2(K) of the Act. According to the management Section 25F of the Act has no application in this case nor the management has committed any unfair labour practice. According to the management the purported workman is not entitled to any relief and the reference is fit to be decided in favour of the management.

4. Upon the pleadings of the parties and the terms of reference the following points arise out for decision :-

- (i) Is the reference maintainable?
- (ii) Whether the action of the management of Bihar Kshetriya Gramin Bank in terminating the service of Shri Kundan Kumar Mishra without complying Sec. 25F of 'the Act' is legal and justified?
- (iii) Whether the action of the management in not reinstating the workman in service is legal and justified?
- (iv) Whether the action of the management in not regularizing the workman in service is legal and justified?

- (v) To what relief or reliefs, if any, the workman is entitled?

FINDINGS

Point No. (i) :

5. Both the parties have adduced evidences, oral as well as documentary in support of their respective contentions. One Anil Kumar, Senior Manager, Personnel, Bihar Kshetriya Gramin Bank Munger has deposed (as M.W. 1) on behalf of the management. The workman himself has deposed (as W.W. 1) for himself in support of his case. The management got exhibited the photocopy of D.O.No. FA-27/75-AC dated 26-11-1975 (Ext.M), photocopy of letter No. F2-27/80 RRB 27-9-1980(Ext.M/1) concerning appointment of messengers in Regional Rural Banks, photocopy of letter No. F2-27/80 RRB dated 16-12-1980(Ext. M/2) and photocopy of letter No. F2-27/80 RRB dated 28-5-1981 (Ext.M/3) on the same subject and photocopy of letter No. 4559 dated 20-3-1993 (Ext.M/4) regarding implementation of National Industrial Tribunal Award. As against that photocopy of letter dated 2-2-2008 of Bihar Kshetriya Gramin Bank regarding calculation of expenses to daily wagers/ part-time workers of Branch(Ext.W), photocopy of list of workmen prepared by Bihar Kshetriya Gramin Bank with the name of Kundan Kumar at serial No. 20 (Ext. W/1), photocopy of letter of Bihar Kshetriya Gramin Bank Dariyapur Branch dated 11-10-2006 regarding removal of the workman from service after making payment through vouchers (Ext.W/2), photocopy of details of daily wages paid by the branch dated 28-2-2008 (Ext. W/3 and W/3-1), photocopy of circular No. 22/2003 dated 10-7-2003 regarding enhancement of daily wages payable to casual worker working in the Bank as sweeper and others (Ext. W/4), photocopy of letter of UCO Bank dated 18-11-1993 (Ext. W/5), photocopy of letter dated 31-12-1993 regarding directions of cleanliness in the Branches (Ext. W/6), photocopy of circular No. 49/2000 of Bhagalpur-Banka Kshetriya Gramin Bank dated 25-11-2000 (Ext. W/7), photocopy of letter dated 22-9-2003 of Bhagalpur Banka Kshetriya Gramin Bank concerning payment of D.A. to daily wagers (Ext. W/8) and photocopy of payment vouchers dated 31-8-2006 (Ext. W/9), I may mention here that the workman called for the voucher, from the management but the management neither produced the same nor filed any explanation of non-filing the same.

6. While challenging the maintainability of this reference the management in its W.S. have contended that daily wagers do not come within the purview of service Regulation of the Bank and they are not 'workman' as defined under Section 2(S) of the Act and the workman is not a member of any union and thus the dispute raised is not an industrial dispute as defined under Section 2(K) of the Act and as such the reference itself is bad in law and is not

maintainable. The definition of 'workman' as laid down under Section 2(S) of the Act reads as follows :

"Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment express or implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person.

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a person; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercise, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature."

According to the said definition Sri Kundan Kumar Mishra is undoubtedly a workman. As per the statement of M.W. 1 daily wagers do not come within the purview of Service Regulation of Bank. In this connection I have to mention that Service Regulations of the Bank can not override the statute, the law framed by the legislature, the Act.

There is no dispute on the point that the workman was not a member of any union. Section 36 of the Act which deals with the representation of the parties reads as follows :—

36. Representation of parties :—(1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by -

(a) (any member of the executive or other officer bearer) of a registered trade union of which he is a member;

(b) (any member of the executive or other office bearer) of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any trade union, by (any member of the executive or other office bearer) of any trade union connected with, or by any other workman employed in, the industry in which the worker is employed and authorised in such manner as may be prescribed."

This workman though is not a member of any union he is represented by the office bearer of the trade union conneted with the industry in which the workman was employed. Under such circumstances the reference can not be said not maintainable merely because the workman did not happen to be a member of any trade union.

Section 2(K) of the Act defines 'Industrial Dispute' as follows :

"Industrial dispute" means any dispute or difference between employers and employers, or between employers and workman, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

Keeping in view the discussions made above I find and hold that the dispute between the management and the workman is an 'industrial dispute' and the reference made for adjudication is maintainable in law. Point No. (i) is decided accordingly.

Point Nos. (ii) & (iii) :

7. At the very outset I would like to mention that the facts of this are almost admitted. From the oral evidence of the parties and also from the pleadings of the parties it is admitted that the workman worked in Bhagalpur branch of the Bank from 1-12-1995 to 15-9-2006, he was removed from the service w.e.f 16-9-2006. It is also an admitted fact that the workman was not given any appointment letter nor he was given termination letter. It has been stated by the workman (W.W.1) and has not been contraverted by the management that the workman worked from 9 a.m. to 5 p.m. and sometimes till colosure of the Bank work even after that as per requirement. He used to be paid weekly on daily basis through vouchers. There is no dispute on the point that earlier he used to get @ Rs. 5/- per day which gradually rose to Rs. 44/- per day. There is no dispute on the point that the workman used to get Festival advance and the same used to be recovered from his wages in instalments. The workman has filed documents in support of the same which need not require discussion because the facts admitted need not be proved. It is also an admitted fact that Bhagalpur Banka Kshetriya Gramin Bank, Munger Kshetriya Gramin Bank and Begusarai Kshetriya Gramin Bank, were amalgamated. Before amalgamation Bhagalpur-Banka Kshetriya Gramin Bank was independent. All the three Kshetriya Gramin Bank, named above were sponsored by UCO Bank. M.W.1 during cross-examination has admitted that National Industrial Tribunal Award become applicable in the Kshetriya Gramin Bank from 1991 M.W.1 in his cross-examination has admitted that the Board of Directors of Bhagalpur-Banka Kshetriya Gramin Bank increased the wages/pay of the sweepers as per the government scales. Copy of letter dated 22-9-2003 (Ext. W/4) also supports the same. Under the circumstances it is an

admitted fact that the workman put in more than 240 days continuous service for about 11(Eleven) years. There is not dispute on the point that the workman was removed from the service on 16-9-2006 by the management without any notice, notice pay or compensation as required under Section 25F of the Act. The workman raised industrial dispute yet he was not reinstated. I may mention here that it was quite within the knowledge of the management that the workman was working, may that be in violation of the circulars of the Bank and the management not only made payments to the workman for his work rendered, it was enhanced from time to time following the enhancement in pay by the government. The management did not take any action or punish the officer who engaged the workman and made payments in violation of the circulars of the Bank. Under such circumstances the management can not take the plea that the claimant was not a workman and the dispute raised by him is not an industrial dispute.

8. Section 2(00) of the Act defines retrenchment as follows :

"retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include.

(a) voluntary retirement of the workman; or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf ; or

(bb) termination the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or

(c) termination of the service of a workman on the ground of continued ill health;

Under the circumstances discussed above I find that the termination of the services of the workman was retrenchment as defined in the above noted section. The retrenchment was done without compliance of the provisions of section 25F of the Act. Under the circumstances I find and hold that the action of the management of Bihar Kshetriya Gramin Bank in terminating the services of the workman without complying Section 25F of the Act, and not reinstating in service is unfair labour practice and is illegal and unjustified. Point Nos. (ii) & (iii) are answered accordingly.

Point No. (iv) :

9. It is an admitted fact that the workman was engaged on daily wages by the management and the

workman worked for nearly eleven years as sweeper-cum-messenger. It is also an admitted fact that there was no advertisement of the post for appointment, no examination for selection meaning thereby the procedures of appointment were not followed in taking the workman in employment. There are catena of decisions and it is well settled principle of law that no direction for regularisation of services of such workman can be issued. Moreover regularisation in service is essentially the executive work, the work of the management and is not the business of tribunal. Under the circumstances though the workman has served the management for a pretty long time and is in the midstream of his life and it is for the management to consider his regularisation, this tribunal can not issue direction for regularisation and can not hold as to whether the action of the management in not regularising the services of the workman was illegal or unjustified or otherwise. I may mention that on behalf of the workman para 4.410 of the award of National Industrial Tribunal for Regional Rural Banks has been referred in support of regularisation. But as already mentioned above the tribunal can not pass an order for regularisation. This point is decided accordingly.

Point No. (v) :

10. It has already been held above that the action of the management of Bihar Kshetriya Gramin Bank in terminating the services of the workman without complying the provisions of Section 25F of the Act is not only illegal it is unjustified also. It has also been held that this tribunal can not pass an order on the point of regularisation of the workman in service. The workman has served the management as Sweeper-cum-Messenger for nearly eleven years and is in the midstream of his life. Under the circumstances I find and hold that the workman deserves to be reinstated with back wages. This point is decided accordingly.

11. In the result I find and hold that the action of the management of Bihar Kshetriya Gramin Bank, Munger in terminating the services of the workman without complying the provisions of Section 25F of the Act is unfair, illegal and unjustified and the workman deserves to be reinstated with back wages @ wages last paid. The management is directed to comply the same within two months from the date of the publication of the Award.

12. And this is my Award.

VASUDEO RAM, Presiding Officer

नई दिल्ली, 30 जनवरी, 2009

का.आ. 460.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बिहार श्रेत्रीय ग्रामीण बैंक प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पंचाट (संदर्भ संख्या 27/2007) को प्रकाशित करती है, जो

केन्द्रीय सरकार को 30-01-2009 को प्राप्त हुआ था।

[सं. एल-12012/72/2007-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. 27/2007) of Industrial Tribunal-cum-Labour Court, Patna as shown in the Annexure, in the Industrial dispute between the management of Bihar Kshetriya Gramin Bank, and their workmen, received by Central Government on 30-01-2009.

[No. L-12012/72/2007-IR-(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL, SHRAM BHAWAN, BAILEY ROAD, PATNA.

Reference Case No. 27(C) of 2007.

Between the management of Bihar Kshetriya Gramin Bank, Head Office, Bhagat Singh Chowk, Munger (Bihar) and their workman Sri Ratan Kumar Jaiswal, represented by Sri B. Prasad, President, Bihar Provincial Gramin Bank Employees Association.

For the management : Sri Shekhar Prasad Singh
Sr. Manager(PAD);
Management
Representative.

For the Workman : Sri B. Prasad, President, Bihar
Provincial Gramin Bank
Employees Association,
Saboo Complex, Exhibition
Road, Patna.

Present : Vasudeo Ram, Presiding Officer

AWARD

Patna, dated the 22nd January, 2009.

By adjudication Order No. L-12012/72/2007-IR(B-1) dated the 17th September, 2007 the Government of India, Ministry of Labour, New Delhi in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called 'the Act' for brevity) has referred the dispute between the management of Bihar Kshetriya Gramin Bank, Munger (Bihar) and their workman Sri Ratan Kumar Jaiswal to this Tribunal for adjudication on the following :-

"Whether the action of the management of Bihar Kshetriya Gramin Bank in terminating the services of Sri Ratan Kumar Jaiswal without complying Section 25F of the I.D. Act and not reinstating and

regularising him in service, is legal and justified? If not, to what relief the concerned workman is entitled to?"

2. The parties appeared on notice and filed their respective statement of claim and the written statement. The contention of the workman is that he had been appointed by the management of the then Bhagalpur-Banka Kshetriya Gramin Bank w.e.f. March, 1994 to discharge the duties of a sweeper-cum-messenger at Gosiangaon branch of the Bank. Since then the workman performed the duties of a sweeper-cum-messenger every day from 9 A.M. to 5 P.M. Sometimes beyond that as per the requirement of the Bank. He was initially paid @ Rs. 2 per day which subsequently was enhanced to Rs. 67 per day. He used to be paid mostly on monthly basis through Bank's Debit vouchers. In the year 2005 the three Regional Rural Banks sponsored by UCO Bank namely Bhagalpur-Banka Kshetriya Gramin Bank, Munger Kshetriya Gramin Bank and Begusarai Kshetriya Gramin Bank were amalgamated following the Central Government. Notification and after amalgamation the same was renamed as Bihar Kshetriya Gramin Bank, Munger with its headquarters at Munger. The Chairman of Munger Kshetriya Gramin Bank was made its Chairman. Further, the case of the workman is that the Chairman in utter violation of law and in most arbitrary manner instructed the Branch Manager to terminate the services of the workman and accordingly the services of workman was terminated on 16-9-2006. On the request of the workman the union of the employees of that Bank took up the matter with the management but the management did not consider their grievances and thereafter the Union raised industrial dispute but the Conciliation proceeding ended in failure due to non-compromising attitude of the management. Thereafter the dispute was referred for adjudication. According to the workman termination of his services is covered under Section 2(00) of the Act. The management violated the mandatory provisions of Section 25F of the Act and thus the management resorted to unfair labour practice as per Schedule V of the Act. Further, the contention of the workman is that he served the management for more than twelve years and is in the mistream of his life having no other means of livelihood. According to the workman the action of the management in terminating the services of the workman; not reinstating and regularising his services in the Bank is neither legal nor justified. The workman claims that he be reinstated with back wages and his services be regularised as full time Sweeper-cum-Messenger.

3. The contention of the management is that Bihar Kshetriya Gramin Bank has been created under the Regional Rural Banks Act, 1976 (in short RRB Act) and as such is guided by the directions issued by Central Government in regard to policy matters involving public interest in discharging its functions. The Central Government issued guidelines through NABARD about strength of manpower of the Bank and the circulars issued by NABARD in that connection is binding on the Bank management.

Further according to the management the appointment of any employer without following the procedures of appointment and without observing the rules of reservation is treated as back-door appointment and such employment will not give any right to such employees. Further the management contends that as per Circular D.O. No. F4-27/75-AC dated 26-11-1975 no peon or his equivalent by whatever designation called, would be employed by R.R. Banks. The services of the employees so appointed would be dispensed with without delay. The representatives of Kshetriya Gramin Banks approached the head-office for employment of sweepers and the matter was placed before the Board of Directors. After deliberations the Board of Directors decided to authorise each branch to spend Rs. 2 only per day from miscellaneous head on cleaning. It was also decided that a man can not work more than seven days and the person so engaged would not claim for appointment on that basis. The part-time sweeper cum-messenger who were in service on 22-2-1991 and completed 240 days continuous service thereafter were treated as regular employees w.e.f. 2-2-1991. The management further contends that this workman was engaged on daily wages without following the norms and procedures of appointment and his engagement was against the circulars of NABARD and Central Government as there was already permanent sub-staff in the category in the branch. There is no sanctioned post in the Bank as daily wagers do not come within the purview of Service Regulations of the Bank. According to the management this claimant is not a workman as defined under Section 2(S) of 'the Act' and as such the reference itself is bad in law. The workman is also not the member of any union. The dispute raised by the claimant is also not an industrial dispute as defined under Section 2(K) of the Act. According to the management Section 25F of the Act has no application in this case nor the management has committed any unfair labour practice. According to the management the purported workman is not entitled to any relief and the reference is fit to be decided in favour of the management.

4. Upon the pleadings of the parties and the terms of reference the following points arise out for decisions :—

- (i) Is the reference maintainable?
- (ii) Whether the action of the management of Bihar Kshetriya Gramin Bank in terminating the service of Shri Ratan Kumar Jaiswal without complying Sec. 25F of 'the Act' is legal and justified?
- (iii) Whether the action of the management in not reinstating the workman in service is legal and justified?
- (iv) Whether the action of the management in not regularising the workman in service is legal and justified?
- (v) To what relief or reliefs, if any, the workman is entitled?"

FINDINGS

Point No. (i):

5. Both the parties have adduced evidence, oral as well as documentary in support of their respective contentions. One Anil Kumar, Officer, Personnel of Bihar Kshetriya Gramin Bank, Munger has deposed (as M.W.1) on behalf of the management. The workman himself has deposed (as W.W.1) in support of the case. The management got exhibited photocopy of D.O.No. F 4-27/75 dated 26-11-1975 (Ext.N), photocopy of circular No. 4/93 dated 8-1-93 of Bhagalpur-Banka Kshetriya Gramin Bank (Ext. M/1) as regards spending Rs. 2/- (Rs. two) only per day from Miscellaneous Head on cleanliness, photocopy of letter No. 4559 dated 20-3-1993 (Ext.M/2) regarding implementation of National Industrial Tribunal Award and photocopy of order of the Hon'ble High Court in C.W.J.C. No. 6822 of 2004 (Ext. M/3) on the point that no direction for regularisation of daily wagers can be passed. As against that the workman got exhibited photocopy letter dated 2-02-08 of Bihar Kshetriya Gramin Bank regarding calculation of expenses on daily wager part time workers of the Branch (Ext. W), photocopy of letter of Bihar Kshetriya Gramin Bank dated 29-2-2008 (Ext. W/1) which relates to one casual worker Sanjay Kumar and not this workman Ratan Kumar Jaiswal, Photocopy of Circular No. 22/2003 dated 10-7-2003 of Bhagalpur-Banka Kshetriya Gramin Bank regarding enhancement of daily wages payable to casual Sweepers (Ext.M/2), photocopy of letter dated 18-11-1993 of UCO Bank (Ext. M/3), photocopy of letter dated 31-10-1993 of Bank (Ext. M/4) for spending Rs. 2/- per day on cleanliness, photocopy of circular Rs. 49/2000 dated 25-11-2000 of Bank concerning revised daily wages to sweepers in Branches (Ext. W/5), photocopy of letter dated 22-09-2003 of Bhagalpur-Banka Kshetriya Gramin Bank (Ext. W/6) concerning payment of D.A. to daily wage workers and photocopy of payment vouchers (Ext. 7 to 18).

6. While challenging the maintainability of this reference the management in its W.S. have contended that daily wagers do not come within the purview of Service Regulation of the Bank and they are not 'workman' as defined under Section 2(S) of the Act and the workman is not a member of any union and thus the dispute raised is not an 'industrial dispute' as defined under Section 2(K) of the Act and as such reference itself is bad in law and is not maintainable. The definition of 'workman' as laid down under Section 2(S) of the Act reads as follows:

"Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment express or implied and for the purpose of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of,

that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

"(i) who is subject to the Air Force Act 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a person; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who being employed in supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercise, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly or a managerial nature."

According to the said definition Sri Ratan Kumar Jaiswal is undoubtedly a workman. As per the statement of M.W.1 daily wagers do not come within the purview of Service Regulation of Bank. In this connection I have to mention that Service Regulations of the Bank can not override the statute, the law framed by the legislature the Act,

There is no dispute on the point that the workman was not a member of any union. Section 36 of the Act which deals with the representation of the parties reads as follows:-

36. Representation of parties:- (1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act by—

(a) (any member of the executive or other office bearer) of a registered trade union of which he is a member;

(b) (any member of the executive or other office bearer) of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any trade union, by (any member of the executive or other office bearer) of any trade union connected with, or by any other workman employed in the industry in which the worker is employed and authorised in such manner as may be prescribed.

This workman though is not a member of any union he is represented by the Office bearer of the trade union connected with the industry in which the workman was employed. Under such circumstances the reference can not be said not maintainable merely because the workman did not happen to be a member of any trade union.

Section 2(K) of the Act defines 'Industrial Dispute' as follows:

"Industrial dispute" means any dispute or difference between employers and employees, or between

employers and workmen, or between workman and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.”

Keeping in view the discussions made above I find and hold that the dispute between the management and the workman is an ‘industrial dispute’ and the reference made for adjudications is maintainable in law. Point No. (i) is decided accordingly.

Point Nos. (ii) & (iii) :

7. At the very outset I would like to mention that the facts of this case are almost admitted. From the oral evidence of the parties and also from the pleadings of the parties it is admitted that the workman worked in Gossingaon branch of the Bank from March, 1994 to 15-9-2006, he was removed from the service w.e.f. 16-9-2006. It is also an admitted fact that the workman was not given any appointment letter nor he was given termination letter. It has been stated by the workman (WW1) and has not been controverted by the management that the workman worked from 9.30 A.M. till 5 P.M. and sometimes even after that as per requirement. He used to be paid monthly on daily basis through vouchers. There is no dispute on the point that earlier he used to get Rs. 2 per day which was gradually increased. There is no dispute on the point that the workman used to get Festival advance and the same used to be recovered from his wages in instalments. The workman has filed documents in support of the same which need not require discussion because the facts admitted need not be proved. It is also an admitted fact that Bhagalpur-Banka Kshetriya Gramin Bank, Munger Kshetriya Gramin Bank and Begusari Kshetriya Gramin Bank were amalgamated. Before amalgamated Bhagalpur, Banka Kshetriya Gramin Bank was independent. All the three Kshetriya Gramin Banks named above were sponsored by UCO Bank. National Industrial Tribunal Award became applicable in the Kshetriya Gramin Banks from 1991 M.W.1 in cross-examination has admitted that the Board of Directors of Gramin Bank increased the wages pay of the sweeper as per the Government Scales. Copy of letter dated 22-9-2003 (Ext. W/6) also supports the same. Under the circumstances it is an admitted fact that the workman put in more than 240 days continuous service or about twelve years. There is no dispute on the point that the workman was removed from the service on 16-9-2006 by the management without any notice, notice pay or compensation as required under Section 25F of the Act. The workman raised industrial dispute yet he was not reinstated. I may mention here that it was quite within the knowledge of the management that the workman was working may that be in violation of the circulars of the Bank and the management not only made payments to the workman for his work rendered, it was enhanced from time to time following the enhancement in pay by the Government to its employees. The management did not take any action or punish the officer who engaged the workman and made payments in

violation of the circulars of the Bank. That simply shows that the work was taken from the workman in connivance of the management. Under such circumstances the management can not take the plea that the claimant was not a workman and the dispute raised by him is not an industrial dispute. It is really peculiar that the management on the one hand took work from the workman for years together and on the other pleads that the engagement of workman was illegal and he can not claim any benefit.

8. Section 2(oo) of the Act defines retrenchment as follows :

“retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action but does not include-

(a) voluntary retirement of the workman : or

(b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or

(bb) termination the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein ; or

(c) termination the service of a workman on the ground of continued ill health;

Under the circumstance discussed above I find that the termination of the services of the workman was retrenchment as defined in the above noted section. The retrenchment was done without compliance of the provisions of Section 25F of the Act. Under the circumstances I find and hold that the action of the management of Bihar Kshetriya Gramin Bank in terminating the services of the workman without complying Section 25F of the Act and not reinstating him in service is unfair Labour Practice and is illegal and unjustified. Point Nos. (ii) and (iii) are answered accordingly.

Point No. (iv) :

9. It is an admitted fact that the workman was engaged on daily wages by the management and the workman worked for nearly twelve years as Sweeper-cum-Messenger. It is also an admitted fact that there was no advertisement of the post for appointment, no examination for selection meaning thereby the procedures of appointment were not followed in taking the workman in employment. There are catena of decisions including Ext. M/3 and it is well-settled principle of law that no direction for regularisations of services of daily wage workman can be issued. Moreover regularisation in service is essentially the executive work, the work management and is not the business of tribunal. Under the circumstances though the

workman has served the management for a pretty long time and is in the midstream of his life and it is for the management to consider his regularisation, this tribunal can not issue direction for regularisation and can not hold as to whether the section of the management in not regularising the services of the workman was illegal or unjustified or otherwise. I may mention that on behalf of the workman para 4.410 of the award of National Industrial Tribunal for Regional Rural Banks has been referred in support of regularisation. But as already mentioned above this tribunal can not pass an order for regularisation. This point is decided accordingly.

Point No. (v):

10. It has already been held above that the action of the management of Bihar Kshetriya Gramin Bank in terminating the services of the workman without complying the provisions of Section 25F of the Act is not only illegal it is unjustified also. It has also been held that this tribunal can not pass an order on the point of regularisation of the workman in service. The workman has served the management as Sweeper-cum-Messenger for nearly 12 years and is in the midstream of his life. Under the circumstances I find and hold that the workman deserves to be reinstated with back wages. This point is decided accordingly.

11. In the result I find and hold that the action of the management of Bihar Kshetriya Gramin Bank, Munger in terminating the services of the workman without complying the provisions of Section 25F of the Act is illegal and unjustified and the workman deserves to be reinstated with back wages @ wages last paid. The management is directed to comply the same within two months from the date of publication of the Award.

12. And this is my Award.

VASUDEO RAM, Presiding Officer

नई दिल्ली, 30 जनवरी, 2009

का.आ. 461.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बिहार श्रेत्रिय ग्रामीण बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण पटना के पंचाट (संदर्भ संख्या 25/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-01-2009 को प्राप्त हुआ था।

[सं. एल-12012/70/2007-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 461.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 25/2007) of Industrial Tribunal-cum-Labour Court, Patna as shown in the Annexure, in the Industrial dispute between the management of Bihar Kshetriya Gramin Bank, and their workmen, received by the Central Government on 30-01-2009.

[No. L-12012/70/2007-IR-(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, SHRAM BHAWAN, BAILEY ROAD, PATNA

Reference Case No. 25(C) of 2007

Between the management of Bihar Kshetriya Gramin Bank, Head Office, Bhagat Singh Chowk, Munger (Bihar) and their workman Sri Nawal Kishore Mandal, represented by Sri B. Prasad, Bihar Provincial Gramin Bank Employees Association.

For the management : Sri Shekhar Prasad Singh
Sri Manager(PAD), Management Representatives.

For the Workman : Sri B. Prasad, President,
Provincial Gramin Bank
Employees Association,
Saboo Complex, Exhibition
Road, Patna.

Present : Vasudeo Ram, Presiding
Officer

AWARD

Patna, dated the 19th January, 2009.

By adjudication Order No. L-12012/70/2007-IR(B-I) dated 14th September, 2007 the Government of India, Ministry of Labour, New Delhi in exercise of the powers conferred by clause (d) of Sub-section (1) and Sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called 'the Act' for brevity) has referred the dispute between the management of Bihar Kshetriya Gramin Bank, Munger (Bihar) and their workman Sri Nawal Kishore Mandal to this Tribunal for adjudication on the following :-

"Whether the action of the management of Bihar Kshetriya Gramin Bank in terminating the services of Sri Nawal Kishore Mandal without complying Section 25F of the I.D. Act and not reinstating and regularizing him in service, is legal and justified? If not, to what relief the concerned workman is entitled to?"

2. The parties appeared on notice and filed the statement of claim and the written statement. The contention of the workman is that he had been appointed in March, 1993 on the post of Sweeper-cum-Messenger in Bhagalpur Branch of the Bank by the management of the then Bhagalpur-Banka Kshetriya Gramin Bank. He used to perform the duties of Sweeper-cum-Messenger in the Bank from 9 A.M. to 5 P.M and sometime even beyond that as per requirement of the Bank. The workman used to be paid initially @ Rs. 2/- which was subsequently raised to Rs. 44 per day. The workman used to be paid mostly on monthly basis through Bank's debit vouchers. In the year 2005 three rural regional Banks Sponsored by UCO Bank namely,

Bhagalpur-Banka Kshetriya Gramin Bank, Munger, Kshetriya Gramin Bank and Begusarai Kshetriya Gramin Bank were amalgamated following the Central Government Notification and after amalgamation the same was renamed as Bihar Kshetriya Gramin Bank with its headquarters at Munger. The Chairman of Munger Kshetriya Gramin Bank was made its Chairman. Further, the case of the workman is that the Chairman of the Bank in utter violation of the law and in most arbitrary manner instructed the Branch Manager to terminate the services of the workman. Accordingly, the services of the workman was terminated from 16-9-2006. On the request of the workman the union took-up the matter with the management but the management did not consider their grievances and thereafter the union raised industrial dispute but the conciliation proceedings ended in failure due to non-compromising attitude of the management. Thereafter the dispute was referred for adjudication. According to the workman termination of his services is covered under Section 2(00) of 'the Act'. The management violated the mandatory provisions of Section 25F of 'the Act' and thus the management resorted to unfair labour practice as per Schedule V of 'the Act'. Further, the contention of the workman is that he worked for over ten years under the management and is in the midstream of his life having no other means of livelihood. According to the workman the action of the management in terminating the services of the workman; not reinstating and regularising his services in the Bank is neither legal nor justified. The workman claims that he be reinstated with back wages and his services be regularized as full-time Sweeper-cum-Messenger.

3. The contention of the management is that Bihar Kshetriya Gramin Bank (hereinafter called 'the Bank' for brevity) has been created under the Regional Rural Banks Act, 1976 (in short RRB Act) and as such is guided by the directions issued by Central Government in regard to policy matters involving public interest in discharging of its functions. The Central Government issued guidelines through NABARD about strength of manpower of the Bank and the circulars issued by NABARD in that connection is binding on the Bank management. Further, according to the management the appointment of any employee without following the procedures of appointment and without observing the rules of reservation is treated as back-door appointment of such employees. Further, the management contends that as per Circular DO-No.F4-27/75-AC dated the 26th November, 1975 no peon or his equivalent by whatever designation called, would be employed by RR Banks. The services of the employees so appointed was directed to be dispensed with without delay. The representatives of Kshetriya Gramin Bank approached the head office for employment of Sweepers and the matter was placed before the Board of Directors. The Board of Directors decided to authorise each branch to spend Rs. 2/- only from miscellaneous account every day on cleaning. It was also decided that a man cannot work more than seven days and the person so engaged would not claim for appointment on that basis. The part-time-Sweeper-cum-Messenger who were in service on 22-2-1991 and

completed 240 days continuous service thereafter were treated as regular employees w.e.f. 2-2-1991. The management further contends that this workman was engaged on daily wages without following the norms and procedures of appointment and his engagement was against the circulars of NABARD and Central Government as there was already permanent sub-staff in the category in the branch. There is no sanctioned post in the Bank as daily wagers do not come within the purview of Service Regulations of the Bank. According to the management this claimant is not a workman as defined u/s 2(S) of 'the Act' and as such the reference itself is bad in law. The workman is also not the member of any union. The dispute raised by the claimant is also not an industrial dispute as defined under Section 2(K) of the Act. According to the management Section 25F of the Act has no application in this case nor the management has committed any unfair labour practice. According to the management the purported workman is not entitled to any relief and the reference is fit to be decided in favour of the management.

4. Upon the pleadings of the parties and the terms of reference the following points arise out for decision :—

- (i) Is the reference maintainable ?
- (ii) Whether the action of the management of Bihar Kshetriya Gramin Bank in terminating the service of Shri Nawal Kishore Mandal without complying Sec. 25F of 'the Act' is legal and justified ?
- (iii) Whether the action of the management in not reinstating the workman in service is legal and justified?
- (iv) Whether the action of the management in not regularising the workman in service is legal and justified?
- (v) To what relief or reliefs, if any, the workman is entitled?

FINDINGS

Point No. (i) :

5. Both the parties have adduced evidence, oral as well as documentary in support of their respective contentions. One Anil Kumar, Officer Personnel of Bihar Kshetriya Gramin Bank, Munger has deposed (as M.W.1) on behalf of the management. The workman himself has deposed (as W.W.1) in support of his contentions. The management got exhibited D.O. No. FA-27/75-AC dated 26-11-1975 (photocopy Ext.M), photocopy of letter No.F2-27/80 RRB dated 27-9-1980(Ext. M/1) concerning appointment of Messengers in Regional Rural Banks, photocopy of letter No. F2-27/80 RRB dated 16-12-1980 (Ext.M/2) on the same subject, photocopy of letter No. F2-27/80-RRB dated 28-5-1981 (Ext.M/3) and photocopy of letter No. 4559 dated 20-3-1993 (Ext.M/4) regarding implementation of National Industrial Award. As against that photocopy of letter dated 2-2-2008 of Bihar Kshetriya

Gramin Bank regarding calculation of expenses to daily wagers/part time worker of Branch (Ext. W), photocopy of Circular No. 49/2000 dated 25-11-2000 of Bhagalpur-Banka Kshetriya Gramin Bank, concerning daily wager for casual Sweeper (Ext. W/1), photocopy of circular No. 22/2003 dated 10-7-2003 of the Bank regarding enhancement of daily wages payable to casual sweeper (Ext. W/2), photocopy of letter dated 18-11-1993 of UCO Bank (Ext. W/3), and photocopy of letter of Bhagalpur Banka Kshetriya Gramin Bank, dated 22-9-2003 concerning payment of D.A. Over daily wage to daily wages (Ext. W/4).

6. While challenging the maintainability of this reference the management in its W.S. have contended that daily wagers do not come within the purview of Service Regulation of the Bank and they are not 'workmen' as defined under Section 2(S) of the Act and the workman is not member of any union and thus dispute raised is not an industrial dispute as defined under Section 2(K) of the Act and as such the reference itself is bad in law and is not maintainable. The definition of 'workman' as laid down under Section 2(S) of the Act reads as follows :

"Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercise, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

According to the said definition Sri Nawal Kishore Mandal is undoubtedly a workman. As per the statement of M.W. 1 daily wagers do not come within the purview of Service Regulation of Bank. In this connection I have to mention that Service Regulations of the Bank cannot override the statute, the law framed by the Legislature, the Act.

There is no dispute on the point that the workman was not a member of any union. Section 36 of the Act which deals with the representation of the parties reads as follows :

"36. Representation of parties :—(1) A workman who is a party to a dispute shall be entitled to be represented in any proceeding under this Act, by—

(a) (any member of the executive or other office bearer) of a registered trade union of which he is a member ;

(b) (any member of the executive or other office bearer) of a federation of trade unions to which the trade union referred to in clause (a) is affiliated;

(c) where the worker is not a member of any trade union, by (any member of the executive or other office bearer) of any trade union connected with, or by any other workman employed, in the industry in which the worker is employed and authorised in such manner as may be prescribed."

This workman though is not a member of any union he is represented by the office bearer of the trade union connected with the industry in which the workman was employed. Under such circumstances the reference cannot be said not maintainable merely because the workman did not happen to be a member of any trade union.

Section 2(K) of the Act defines 'Industrial Dispute' as follows :—

"Industrial dispute means any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person".

Keeping in view the discussions made above I find and hold that the dispute between the management and the workman is an 'industrial dispute' and the reference made for adjudication is maintainable in law. Point No. (1) is decided accordingly.

Point Nos. (ii) & (iii) :

7. At the very outset I would like to mention that the facts of this are almost admitted. From the oral evidence of the parties and also from the pleadings of the parties it is admitted that the workman worked in Bhagalpur branch of the Bank from March, 1993 to 15-9-2006, he was removed from the service w.e.f. 16-9-2006. It is also an admitted fact that the workman was not given any appointment letter nor he was given termination letter. It has been stated by the workman (W.W.1) and has not been controverted by the management that the workman worked from 9.30 A.M. till 6.30 P.M. and sometimes till closure of the Bank work even after that as per requirement. He used to be paid weekly on daily basis through vouchers. There is no dispute on the point that earlier he used to get @Rs. 2/- per day gradually rose to Rs. 44/- per day. There is no dispute on the point that the workman used to get Festival advance and the same used to be recovered from his wages in instalments. The workman has filed documents in support of the same which need not require discussion because the facts admitted need not be proved. It is also an admitted fact that Bhagalpur-Banka Kshetriya Gramin Bank, Munger

Kshetriya Gramin Bank and Begusarai Kshetriya Gramin Bank were amalgamated. Before amalgamation Bhagalpur-Banka Kshetriya Gramin Bank was in dependent. All the three Kshetriya Gramin Banks named above were sponsored by UCO Bank. M.W.1 during cross-examination has admitted that National Industrial Tribunal Award became applicable in the Kshetriya Gramin Bank from 1991. M.W.1 in para 22 of his cross-examination has admitted that the Board of Directors of Bhagalpur-Banka Kshetriya Gramin Bank increased the wages pay of the sweepers as per the government scales. Copy of letter dated 22-9-2003 (Ext. W/4) also supports the same. Under the circumstances it is an admitted fact that the workman put in more than 240 days continuous service for about 13 (thirteen) years. There is no dispute on the point that the workman was removed from the service on 16-9-2006 by the management without any notice, notice pay or compensation as required under Section 25F of the Act. The workman raised industrial dispute yet he was not reinstated. I may mention here that it was quite within the knowledge of the management that the workman was working may that be in violation of the circulars of the Bank and the management not only made payments to the workman for his work rendered, it was enhanced from time to time following the enhancement in pay by the government. The management did not take any action or punish the officer who engaged the workman and made payments in violation of the circulars of the Bank. Under such circumstances the management cannot take the plea that the claimant was not a workman and the dispute raised by him is not an industrial dispute.

8. Section 2(o) of the Act defines retrenchment as follows:

“retrenchment” means the termination by the employer of the service of a workman for any reason whatsoever, other than as a punishment inflicted by way of disciplinary action but does not include :—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination the service of the workman as a result of the non-renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or
- (c) termination of the service of a workman on the ground of continued ill health.

Under the circumstances discussed above I find that the termination of the services of the workman was retrenchment as defined in the above noted section. The retrenchment was done without compliance of the

provisions of Section 25F of the Act. Under the circumstances I find and hold that the action of the management of Bihar Kshetriya Gramin Bank in terminating the services of the workman without complying Section 25F of the Act, and not reinstating him in service is unfair labour practice and is illegal and unjustified. Point Nos. (ii) & (iii) are answered accordingly.

Point No. (iv):

9. It is an admitted fact that the workman was engaged on daily wages by the management and the workman worked for nearly thirteen years as sweeper-cum-messenger. It is also an admitted fact that there was not advertisement of the post for appointment, no examination for selection meaning thereby the procedures of appointment were not followed in taking the workman in employment. There are catena of decisions and it is well settled principle of law that no directions for regularisations of services of such workman can be issued. Moreover regularisation in service is essentially the executive work, the work of the management and is not the business of tribunal. Under the circumstances though the workman has served the management for a pretty long time and is in the midstream of his life and it is for the management to consider his regularisations, this tribunal can not issue direction for regularisation and can not hold as to whether the action of the management in not regularising the services of the workman was illegal or unjustified or otherwise. I may mention that on behalf of the workman para 4.410 of the award of National Industrial Tribunal for Regional Rural Banks has been referred in support of regularisation. But as already mentioned above the tribunal can not pass an order for regularisation. This point is decided accordingly.

Point No. (v):

10. It has already been held above that the action of the management of Bihar Kshetriya Gramin Bank in terminating the services of the workman without complying the provisions of Section 25F of the Act is not only illegal it is unjustified also. It has also been held that this tribunal can not pass an order on the point of regularisation of the workman in service. The workman has served the management as sweeper-cum-messenger for nearly thirteen years and is in the midstream of his life. Under the circumstances I find and hold that the workman deserves to be reinstated with back wages. This point is decided accordingly.

11. In the result I find and hold that the action of the management of Bihar Kshetriya Gramin Bank, Munger in terminating the services of the workman without complying the provisions of Section 25F of the Act is illegal and unjustified and the workman deserves to be reinstated with back wages @ wages last paid. The management is directed to comply the same within two months from the date of the publication of the Award.

12. And this is my Award.

VASUDEO RAM, Presiding Officer

नई दिल्ली, 30 जनवरी, 2009

का.आ. 462.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इन्टरनेशनल एयरपोर्ट ऑथोरिटी ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं.-II, मुम्बई के पंचर (संदर्भ संख्या सी जी आई टी-2/3/1990) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2009 को प्राप्त हुआ था।

[सं. एल-11012/9/1989-आई आर(एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 462.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/3/1990) of the Central Government Industrial Tribunal-cum-Labour Court, No.-II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of International Airport Authority of India, and their workman, which was received by the Central Government on 30-01-2009.

[No. L-11012/9/1989-IR (M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL NO. II AT MUMBAI****PRESENT: A. A. LAD, Presiding Officer****Reference No. CGIT/2/3 of 1990**

Employers in relation to the management of International Airports Authority of India

The Airport Director,
International Airports Authority of India,
Bombay Airport,
Mumbai 400 099.

... First Party

And

Their Workman,
Through the Local Secretary,
International Airport Authority Employees
Union, Bombay Airport,
Mumbai 400 099.

... Second Party

APPEARANCE

For the Employer : Mr. Shamrao Patil, Advocate.

For the Workman : No appearance.

Date of Passing of Award : 21st November, 2008

AWARD

The matrix of the facts as culled out from the proceedings are as under :

2. The Government of India, Ministry of Labour, New Delhi, by its Order its No. L-11012/9/89-IR(Misc.) dated 24th January, 1990 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of International Airport Authority of India, Bombay in removing Mr. T.C./Shivaprashad, Mechanic (ACR), Bombay Airport with effect from 9-2-1988 is legal and justified? If not, to what relief the workman is entitled?

(2) To support the subject-matter referred in the reference 2nd Party filed Statement of Claim at Exhibit 2 which was disputed by the 1st Party by filing written statement at Exhibit 3 and in view of that, my Ld. Predecessor framed Issues at Exhibit 4.

(3) By part I Award issue of Enquiry and perversity of the finding of the Enquiry Officer was decided which was challenged by the 1st Party vis-a vis order of this Tribunal where the Division Bench of our Hon'ble High Court observed that, inter-locutory order cannot be challenged in Writ Petition. Then 1st Party withdrew the Appeal filed in the Hon'ble Bombay High Court on the order of the Writ Petition filed against the order of this Tribunal and prayed to proceed with the present Reference by filing application at Exhibit 96.

(4) On the request of the Management, Exhibit 96, notices were sent to 2nd Party. Management appeared. Though Union was served with Exhibit 98 and its Advocate, nobody appeared and responded to the notice given by this Court.

(5) This is the Reference of 1990, though attempts were made to secure the presence of the 2nd Party nobody appeared. It takes me to conclude that, the 2nd Party is not interested in proceeding with the reference and in this situation there is no point to keep this reference alive. Hence, the order:

ORDER

Reference is disposed off for want to prosecution.

A. A. LAD, Presiding Officer

Bombay,

21st November, 2008.

नई दिल्ली, 30 जनवरी, 2009

का.आ. 463.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में दुरावसाध की

क्रुसेटजी सन्स (मुम्बई) प्रा. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं.-II, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-2/9/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2009 को प्राप्त हुआ था।

[सं. एल-31012/12/2001-आई आर(एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 463.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/9/2002) of the Central Government Industrial Tribunal-cum-Labour Court, No.-II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Dorabshaw B. Crusetjee Sons (Bombay) Pvt. Ltd. and their workmen, which was received by the Central Government on 30-01-2009.

[No.L-31012/12/2001-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II AT MUMBAI

Present : A. A. LAD, Presiding Officer

Reference No. CGIT-2/9 of 2002

Employers in relation to the management of

M/s. Darabshaw B. Crusetjee Sons (Bombay) Pvt. Ltd.

1. The Managing Director,
M/s. Darabshaw B. Crusetjee Sons (Bombay) Pvt. Ltd.
Darabshaw House, Ballard Pier,
Mumbai 400010.

2. Mumbai Port Trust
Vijay Deep, S. V. Marg,
Ballard Estate, Mumbai 400001. ...First Party

And

Their Workman,
A. Abdul Kadar, R. No. 3, Bharati Nagar,
Tilak Nagar, Chembur,
Mumbai 400038. ... Second Party

APPEARANCE

For the Employer (1) : Mr. B. K. Ashok, Advocate.
(2) : Mr. Umesh Nabar, Advocate

For the Workman : Mr. R. R. Yadav, Advocate

Date of Passing the Award : 22-12-2008.

AWARD

The reference is sent to this Tribunal by the Under Secretary of Central Government, The Government of India, Ministry of Labour by its Order No.L-31012/12/2001-IR(M) dated 24th January, 2001 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 to decide :

"Whether the action of the management of M/s. Dorabshaw B. Crusetjee Sons (Bombay) Pvt. Ltd., Contractor, M/s. Bombay Port Trust in terminating the services of Shri A. Abdul Kadar, Carpenter w.e.f. 3-9-99 is legal and justified? If not, what relief the workman is entitled to?"

(2) Statement of Claim is filed by the concerned Workman at Exhibit 4. Said was replied by the 1st Party (1) by filing Written Statement at Exhibit 8.

(3) Issues were framed by my Ld. Predecessor at Exhibit 10 and the Reference was fixed for recording evidence.

(4) 2nd Party filed affidavit at Exhibit 14 as well as at Exhibit 17 in lieu of the examination in chief and he was cross examined on it by 1st Party.

(5) In the meanwhile concerned Workman came with a proposal of settlement at Exhibit 27 and informed that the dispute is settled and he requested to take the Reference before Lok Adalat.

(6) Accordingly the matter was placed for consideration before the Lok Adalat on 22nd December, 2008. Hence, the order :

ORDER

In view of the Exhibits 27 and 28 Reference is disposed off in Lok Adalt..

A. A. LAD, Presiding Officer

Bombay,

22nd December, 2008.

Exh. NO. 27

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 AT MUMBAI

Reference No. CGIT-2/9 of 2002

BETWEEN

Employers in relation to the management of

1. M/s. Darabshaw Crusetjee's Sons (Bombay) Pvt. Ltd.
2. Employers in relation to the management of Mumbai Port Trust

V/s.

Mr. A. Abdul Kadar

MAY IT PLEASE THIS HON'BLE COURT

The Second Party workman states that he has settled all his claim, dispute with the first Party above named, monetarily and hence he does not wish to proceed with the Reference further. A memorandum of Settlement to that effect have been executed between the parties.

It is therefore, prayed that the Hon'ble Court may be pleased to pass an Award disposing of the Reference as settled out of Court.

Mumbai :

Dated: 11-11-2008

A. Abdul Kadar

(Second Party Workman)

Explained & Identified by me

R. K. Yadav

B. K. Ashok

Advocate for 1st Party.

Advocate for Second Party.

MEMORANDUM OF SETTLEMENT

Under Section 2 (p) of Industrial Dispute Act, 1947.

This Memorandum of Settlement is made and entered into at Mumbai on this 11th day of November, 2008, Between:-

M/s. Darabshaw B. Crusetji's Son (BOM) Ltd.,

Darabshaw House, Ballard Pier,

Mumbai-400001.

(herein referred to as the "Employer") of the party of the First Part,

And

(1) Mr. Rajbhan Santbhan Singh,

Room No. 27, Zakaria Bunder Road,

Sewree, Mumbai-400015.

(2) Mr. A. Abdul Kadar,

Room No. 3, Bharti Nagar,

Tilak Nagar, Chembur,

Mumbai-400089.

(hereinafter referred to as the "Employees") of the party of the Second Part.

Whereas the party of the Second part were employed with the Party of the First Part, as Carpenter-cum-Sewing

man. They raise an Industrial Dispute challenging termination of their service by the First Party company. The said dispute was referred before the Hon'ble Central Government Industrial Tribunal No. 2, Mumbai, under reference No. CGIT-2/26 of 2002 and Reference No. CGIT-2/9 of 2002 respectively of both the above named second party. The party of the first part have contended that both the second party were legally retrenched by following due process of law and by complying very strictly with all the provisions of law, specially Section 25 F of Industrial Dispute Act, 1947. The first party company have further contended that the stevedoring business of the company had gone down miserably and it was not possible for the company to continue its stevedoring business and in the circumstances the company surrendered their stevedoring Licence to the Mumbai Port Trust, by their letter dated 24th April, 2000. The first party company further contended in their W.S. that after surrendering the stevedoring Licence to the Mumbai Port Trust almost all the employees of the company who were engaged in stevedoring work were retrenched by the company and paid according to the law. The said both the Reference is pending for hearing before the said Hon'ble Tribunal.

And Whereas the Second party employees and the First Party employer negotiated with the matter/claim and after discussion, both the parties arrived at the settlement on the following terms and conditions :

1. The Party of the First Part both paid to the Second Party No. 1 a sum of Rs.1,60,000/- (Rupees one lac sixty thousand only) and an amount of Rs. 1,40,000 (Rupees one lac forty thousand only) to the Second Party No.2 towards full and final settlement of all their claim, dispute raised in abovementioned References. The receipt of the said amounts, both the Second party admit and acknowledge in this Memorandum of Settlement.

2. The First Party company hereby agree to take immediate steps for payment of Provident Fund amount accumulated along with interest to the second party workmen, at the earliest possible.

2.A The second Party employees hereby declares that they have settled all their claim, dispute in full and final and on receipt of the said amounts, and they shall not have any claim of reinstatement, re-employment, back wages, earned wages, leave wages, bonus, retrenchment compensation, Gratuity, overtime wages and/or any other claim of whatsoever nature against the First Party employer.

3. The Second Party employees further undertake that they will not raise any claim of whatsoever nature against the First Party or against its Directors or against Mumbai Port Trust, at any time in future.

4. The Second Party employees hereby undertake to file settlement purshish before the said Hon'ble

Tribunal, praying disposal of both the Reference, as settled out of Court.

Sd/-
Illegible
Shri D. Kapadia
For M/s. Darabshaw
Cursetji's
Sons (Bom) Ltd.,
First Party Employer (2) Shri A Abdul Kadar

Sd/-
Illegible
(1) Shri Rajbhan Santbhan Singh

Second Party Employees

Witnesses :

- 1.
- 2.

RECEIPT

I, Mr. Rajbhan Santbhan Sing, Received with thanks from M/s. Darabshaw Cursetji's Sons (Bom) Ltd., the First party employer, a sum of Rs. 1,60,000 Rupees one lac Sixty thousand only) towards full and final settlement of all my dues and claims made in Reference No. CGIT-2/9 of 2002. I hereby declare that hereafter I shall not have any claim of reinstatement, re-employment, back wages, earned wages, leave wages, Commission, bonus, Gratuity, overtime wages or any other claim of whatsoever nature against the said M/s. Darabshaw Cursetji's Sons (Bom) Ltd. I also hereby declare that hereafter I shall move an application to dispose of the said Reference as settled out of Court. I further undertake not to initiate any proceeding against the said employer at anytime in future.

I say that I received the above mentioned amounts as follows:

Rs. 1,60,000 (Rupees one lac sixty thousand only) by Cheque No. 006696 dated 7-11-08 drawn on Bank of India Branch. Ballard estate.

Mumbai : Sd/-
Date: 11-11-08 Illegible
(Mr. Rajbhan Santbhan Singh)

Witnesses :

- 1.
- 2.

RECEIPT

I, Mr. A Abdul Kadar, Received with thanks from M/s. Darabshaw Cursetji's Sons (Bom) Ltd., the First party employer, a sum of Rs. 1,40,000 (Rupees one lac fourty thousand only) towards full and final settlement of all my dues and claims made in Reference No. CGIT-2/26 of 2002. I hereby declare that hereafter I shall not have any claim of reinstatement, re-employment, back wages, earned wages,

leave wages, Commission, bonus Gratuity, overtime wages or any other claim of whatsoever nature against the said M/s. Darabshaw Cursetji's Sons (Bom) Ltd. I also hereby declare that hereafter I shall move an application to dispose of the said Reference as settled out of Court. I further undertake not to initiate any proceeding against the said employer at anytime in future.

I say that I received the above mentioned amounts as follows:

Rs. 1,40,000 (Rupees one lac fourty thousand only) by Cheque No. 006695 dated 7-11-08 drawn on Bank of India Branch.

Mumbai : Signed, (Illegible)
Date: 11-11-08 (Mr. A. Abdul Kadar)

Witnesses:

1. Signed, (Illegible)
2. Signed, (Illegible)

Proceedings of the Lok Adalat held on 22nd December, 2008.

Exh. No. 28

Ref. No. CGIT-2/9 of 2002,
D.B.C. Sons, (Bom) P. Ltd.,
and another
Vs.
A. Abdul Kadar.

Panel Members:

1. Mr. M.B. Aréhn, Advocate.
2. Mr. S.B. Kadar, Advocate.
3. Mr. R. S. Pai, Advocate.

Present :

A. Abdul Kadar : Workman
Mr. D. Kapadia : Rp. of Management No. 1
Mr. Umesh Nabhar : Advocate for Management No. 2

Parties have amicably settled the above matter. Settlement filed at Ex 27. Sent to Tribunal for Award.

Signed, Illegible
UMESH NABARD,
Adv for Management No. 2

नई दिल्ली, 30 जनवरी, 2009

का.आ. 464.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. काला माईन्स एण्ड मिनरल्स के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं.-II, मुम्बई के पंचाट (संदर्भ संख्या सी जी

आई टी-2/48/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2009 को प्राप्त हुआ था।

[सं. एल-29011/72/2004-आई आर(एम)]

कमल बाखरू, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 464.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT-2/48/2005) of the Central Government Industrial Tribunal-cum-Labour Court, No.-2, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Kala mines and minerals, and their workman, which was received by the Central Government on 30-01-2009.

[No. L-29011/72/2004-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL-TRIBUNAL NO. 2 AT MUMBAI

PRESENT: A.A. LAD, Presiding Officer

Reference No. CGIT/2/48 of 2005

Employers in relation to the management of

1. M/s. Kala Mines & Minerals,

2. M/s. Sociedade De Fomento Industrial Pvt. Ltd.,

1. The Managing Partner,

M/s. Kala Mines & Minerals,

Baboy Commerce Centre,

'B' Block, 1st floor, FO-32 & 35

Martiers Dias Road,

Goa-403 601.

2. The Managing Director,

M/s. Sociedade De Domento Industrial Pvt. Ltd.,

Vila Flores Da Silva,

Erasmo Carvalho Street,

Goa-403 601.

And

Their Workman,

The Secretary,

Goa Mining Labour Welfare Union,

Velho's Building, 2nd floor,

Opp. Municipal Garden,

Panaji, Goa-403 001

APPEARANCES

For the Employer No.1: Mr. M.S.Bandodkar
Advocate.

For the Employer No.2: Mr. G.B. Kamat Advocate

For the Workmen : Mr. Suhaas Naik, Advocate

Camp:Goa, dated 27th, November, 2008.

AWARD

The Government of India, Ministry of Labour by its Order No. L-29011/72/2004-IR (M) dated 25-01-2005, in

exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

" Whether the action of the management of M/s. Kala Mines & Minerals, Goa in closing mining activities w.e.f. 25-07-2002 and terminating the employment of 21 workmen as per Annexure VI w.e.f. 26-07-2002 is legal and justified? If not, to what relief the workmen are entitled for?"

Name of the workmen

1. Mr. Devidas Dessai	12. Mr. Namdev Naik
2. Mr. Hari Dhargalkar	13. Mr. Vaghò Zure
3. Mr. Gopal Mapari	14. Mr. Anil Adalkar
4. Mr. Devidas Sawant	15. Mr. Gopinath Gaonkar
5. Mr. Gajanan Prabhu	16. Mr. Mangesh Gouhder
6. Mr. Madhukar Marathe	17. Mr. Lavu Sawant
7. Mr. Tohidas Surkar	18. Mr. Rajendra Dessai
8. Mr. Shankar Vakhode	19. Mr. Foudi Dessai
9. Mr. Ravindra Dessai	20. Mr. Arjun Dessai
10. Mr. Suresh Dhavkonhar	21. Mr. Niclao Gomes
11. Mr. Babu Pingle	

2. Claim Statement was filed by the General Secretary, of Goa Mining Labour Welfare Union at Ex.-10. Written statement was filed at Ex.-26 by the management and issues framed at Ex.-36. Reference was kept for recording evidence. Meanwhile parties decided to settle dispute out of court. By pursuiss Ex.-98 submitted proposal of settlement which was accepted. Hence the order:

ORDER

Vide Exhibit-98, reference is disposed of.

Camp: Goa

Date: 27-11-2008

A. A. LAD, Presiding Officer

EX NO: 98

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL

TRIBUNAL NO. 2 AT MUMBAI

Ref. No : CGIT-2/48 of 2005

Workmen ... Party No. I

Versus

1. M/s. Kala Mines & Minerals ... Party No. II (I)

2. M/s. Sociedade de Fomento ... Party No. II (II)

Industrial Pvt. Ltd. ... Party No. II (II)

CONSENT TERMS OF SETTLEMENT

MAY IT PLEASE YOUR HONOUR:

1. The Central Government in exercise of the powers conferred by clause (d) of sub-section (1) of sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14

of 1947) hereby refers the said dispute for adjudication to the Central Government Tribunal-cum-Labour Court, Mumbai, No. 2 vide its order No.-L-29011/72/2004-IR (M) dated 25-01-2005.

SCHEDULE

" Whether the action of the management of M/s. Kala Mines & Minerals, Goa in closing mining activities w.e.f. 25-07-2002 and terminating the employment of 21 workmen of as per the Annexure-VI w.e.f. 26-07-2002 is legal & justified? If not, to what relief the workmen are entitled for?"

2. That the above named parties to the dispute, have after discussions and deliberations, amicably settled the entire matter as under :

3. That the Party No. I and Party No. II (I) admit that the Party No II (I) is the Employer of the 21 workmen involved in the present Reference as the Licensed Contractor of the Principal Employer, i.e. Party No. II (II), under the Contract Labour (Regulation & Abolition) Act, 1970, and Rules thereunder at all times during the working of the Party No. II (I) at the mining establishment of the Party No. II (II) at Shigao from 10.10.1989 to 25.07.2002.

4. (i) That the Party No. I and the Party No. II (I) agree and admit that the termination of services of all the 21 workmen named in the Order of Reference was on account of the termination of the contract of the Party No. II (I) w.e.f. 25.07.2002.

(ii) The Party No. I and the Party No. II (I) further admit that the Party No. II (II) is the Principal Employer and the Union as well as the 21 workmen have no claim of whatsoever nature against the Party No. II (II) in this present reference.

5. That the Party No. I and the Party No. II (I) agree that the final settlement dues consisting of notice pay, retrenchment compensation dues, gratuity and other dues such as Bonus, leave encashment as shown in the Annexure attached to this settlement are the legal dues due and payable to the workmen named in the Order of Reference and that the Party No. II (I) agrees and undertakes to pay the said amount to the workmen named in the Annexure—I immediately on the date of signing this settlement by Demand Draft (DD) in favour of each and every workman and the workmen agree to discharge a valid receipt for the amount received from the Party No. II (I).

6. That the Party No. I and the workmen named in the Order of Reference agree that the amount shown in the Annexure—I is on account of the termination of the contract of the Party No. II (I) and that the dispute raised in the present Order of Reference by the Party No. I stands conclusively settled in all its finality and no dispute survives.

7. The workmen named in the Order of Reference agrees to pay Union deductions of 10 % from the final/balance dues payable to each and every individual workman as an authorized Union deduction and the Party No. II (I) agrees to pay these Union deductions to the Goa

Mining Labour Welfare Union by a Demand Draft payable on or before 18-09-2008.

In view of the above terms of the settlement, the Party No. I and Party No. II (I) and Party No. II (II) prays that a Consent Award be passed in terms of the above terms of Settlement.

For Goa Mining Labour Welfare Union

[PRESIDENT]
Workmen

1. Hari B. Dhargalkar
2. Devidas V. Dessai
3. Gopal Mapari
4. Devidas S. Sawant
5. Gajanand Prabhu
6. Madhukar Marathe
7. Babu K. Pingle
8. Nicalo Gomes
9. Vaglo M. Zore
10. Lavu L. Sawant
11. Suresh B. Devkonkar
12. Namdev Naik
13. Ravendra S. Dessai
14. Shankar Vakode
15. Murgan Gounder
16. Gopinath V. Gaonkar
17. Rohidas S. Surlekar
18. Anil A. Adarkar
19. Rajendra V. Dessai
20. Fondu Dessai
21. Arjun Dessai

[PARTY II]

For M/s. KALA MINES & MINERALS

Shri Bipinchandra S. Kantak

[PARTNER]

[PARTY II (I)]

For M/s SOCIEDADE DE FOMENTO
INDUSTRIAL PVT. LTD

[DIRECTOR]

[PARTY II (II)]

Vasco-da-Gama, Goa.
18-09-2008

Signed, (Illegible)
(Adv. for Workman Union)
Signed, (Illegible)
(Adv. for Party II (I)/ Employee)
Signed, (Illegible)
(Adv. for Party II (II)/ Employee)
Adv. G. B. Kanat

CHART SHOWING AMOUNTS PAYABLE TO EACH WORKMAN

A	B	C	D	E	F	G	H	I	J	
Sr. No.	Name of Workman	Date of Joining	Date of Termination	No. of Completed Years	Total Gross Wages	Retrenchment Compensation	Gratuity	Bonus 2001-2002	Bonus 2002-2003	Leave Encashment
1.	Hari B.Dhargalkar	16-10-1993	25-07-02	7 years	5,610	19,635	22,655	4,816	1,738	
2.	Devidas Desai	01-01-1990	25-07-02	13 years	4,943	32,129	37,072	4,319	1,529	6,688
3.	Gopal Mapari	23-10-1992	25-07-02	9 years	5,493	24,718	28,521			
4.	Devidasa Sawant	12-03-1990	25-07-02	12 years	5,189	31,133	35,923	4,462	1,439	
5.	Gajanan Prabhu	08-01-1990	25-07-02	13 years	4,718	30,660	35,384	4,187	1,458	6,048
6.	Madhukar Marathe	13-02-1992	25-07-02	10 years	4,456	22,279	25,707	3,948	1,375	5,530
7.	Babu K. Fingle	03-10-1994	25-07-02	8 years	4,109	16,435	18,964	3,381	1,222	834
8.	Nicolo Gomes	01-11-1993	25-07-02	7 years	3,964	13,874	16,008	3,501	1,221	2,538
9.	Vaglo M. Zore	04-05-1995	25-07-02	7 years	3,964	13,874	16,008	3,164	1,030	
10.	Lavu L. Sawant	01-08-1995	25-07-02	7 years	3,964	13,874	16,008	3,297	1,146	
11.	Suresh B. Davkonkar	12-03-1993	25-07-02	9 years	4,282	19,268	22,233	3,420	1,297	
12.	Namdev Naik	12-03-1995	25-07-02	7 years	3,846	13,461	15,531	3,184	1,184	
13.	Ravindra S.Dessai	21-02-1996	25-07-02	6 years	3,846	11,538	13,313	3,381	1,184	1,644
14.	Shankar Vakode	01-11-1995	25-07-02	7 years	4,790	16,764	19,344	2,539		
15.	Murgan Gounder	12-02-1995	25-07-02	7 years	3,991	13,968	16,117	3,527	1,229	3,976
16.	Gopinath v. Gaonkar	13-03-1995	25-07-02	7 years	3,991	13,968	16,117	3,526	1,229	3,350
17.	Rohidas S. Surlekar	06-02-1995	25-07-02	7 years	3,991	13,968	16,117	3,527	1,229	5,254
18.	Anil A. Adarkar	01-09-1995	25-07-02	7 years	3,846	13,461	15,531	2,039		
19.	Rajendra V. Dessai	07-03-1994	25-07-02	9 years	2,877	12,946	14,938	2,532	1,383	
20.	Fondu Dessai	08-01-1995	25-07-02	8 years	2,849	11,395	13,149	2,541	1,369	
					84,719	359,348	414,640	65,291	22,262	36,062

Sr. No.	Name of Workman	K Notice Payment	L Balance Payment	M Total of F to L	N Additional Compensation for 3 months Gross Wages	O Total of M+N	P Total Amount Received by Workman	Q Balance Now Payable	R Authorised Union Deductions (@ 10% of Final Payment	S Net Payable to Workers
							F+H+I+J+L			
1.	Hari B. Dhargalkar	5,610		54,454	16,830	71,284		71,284	7,128	64,156
2.	Devidas Desai	4,943		86,680	14,829	101,509	44,665	56,844	5,684	51,160
3.	Gopal Mapari	5,493		58,732	16,479	75,211		75,211	7,521	67,690
4.	Devidas Sawant	5,189		78,146	15,567	93,713	37,034	56,679	5,668	51,011
5.	Gajananand Prabhu	4,718		82,455	14,154	96,609	42,353	54,256	5,426	48,830
6.	Madhukar Marathe	4,456		63,295	13,368	76,663	33,132	43,531	4,353	39,178
7.	Babu K. Pingle	4,109		44,945	12,327	57,272	21,872	35,400	3,540	31,850
8.	Nicalo Gomes	3,964		41,106	11,892	52,998	21,134	31,864	3,186	28,678
9.	Vagdo M. Zore	3,964		38,040	11,892	49,932	18,068	31,864	3,186	28,678
10.	Lavu L. Sawant	3,964		38,289	11,892	50,181	18,317	31,864	3,186	28,678
11.	Suresh B. Davkonkar	4,282		50,500	12,846	63,346	23,985	39,361	3,936	35,425
12.	Namdev Naik	3,846		37,206	11,538	48,744	17,829	30,915	3,092	27,823
13.	Ravindra S. Desai	3,846		34,906	11,538	46,444	17,747	28,697	2,870	25,827
14.	Shankar Vakode	4,790	7,135	50,572	14,370	64,942	26,438	38,504	3,851	34,653
15.	Murgan Gounder	3,991		42,808	11,973	54,781	22,700	32,081	3,208	28,873
16.	Gopinath v. Gaonkar	3,991		42,381	11,973	54,354	22,273	32,081	3,208	28,873
17.	Rohidas S. Sirtlekar	3,991		44,086	11,973	56,059	23,978	32,081	3,208	28,873
18.	Anil A. Adarkar	3,846		34,877	11,538	46,415		46,415	4,642	41,773
19.	Rajendra V. Dessai		11,508	43,307	8,631	51,938	28,369	23,569	2,357	21,212
20.	Fondu Dessai		11,396	39,850	8,542	48,392	26,701	21,691	2,169	19,522
		78,993	30,039	100,663	254,152	1,260,787	446,595	814,192	81,419	732,773

SANJAY alias ARJUN L. DESAI

Retirement Compensation	Rs.23,076
Gratuity	26,626
Bonus for 2001-2002	3,381
Bonus for 2002-2003	1,184
Salary from 8-05-01 to 24-07-02 14 months @ Rs. 3846	53,844
Salary from 25-07-2002 to 24-06-2008, 50% of 71 X Rs. 3846	1,36,533
Total	2,44,644
ADD ex-gratia payment	5,356
Total Payable	2,50,000
Less Authorized union Deduction @ 10% of total payment	25,000
Net payable	Rs.2,25,000

नई दिल्ली, 30 जनवरी, 2009

का.आ. 465.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. काला माइन्स एण्ड मिनेरल्स के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं.-II, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-2/88/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2009 को प्राप्त हुआ था।

[सं. एल-29012/32/2002-आई आर(एम)]
कमल बाखरू, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 465.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-2/88/2002) of the Central Government Industrial Tribunal/Labour Court, No.-II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Kala Mines & Minerals and their workman, which was received by the Central Government on 30-01-2009.

[No. L-29012/32/2002-IR (M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II MUMBAI****PRESENT : A.A. LAD, Presiding Officer****Reference No. CGIT/2/88 of 2002**Employers in relation to the management of M/s. Kala
Mines & Minerals

The Managing Partner,
M/s. Kala Mines & Minerals,
Baboy Commerce Centre
'B' Block, 1st Floor, FO-32 & 35,
Martiers Dias Road,
Goa 403601.

And
Their Workman
The Secretary,
Goa Mining Labour Welfare Union,
Volho's Building, 2nd floor,
Opp. Municipal Garden,
Panaji,
Goa 403001.

APPEARANCES

For the Employer : Mr. M.S. Bandodkar Advocate.

For the Workman : Mr. Suhaas Naik Advocate.

Camp : Goa, Dated 27th November, 2008**AWARD**

The Government of India, Ministry of Labour by its Order its No.L-29012/32/2002/IR(M) dated 20th November, 2002, in exercise of the powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication:

"Whether the action of the management of M/s. Kala Mines & Minerals Goa in terminating the services of Shri Sanjay Alias Arjun Laximan Desai with effect from 8-5-2001 is legal; and justified? If not, to what relief the workman is entitled for?"

2. Claim Statement is filed by the second party at Ex-5 and written statement at Ex-9 by the first party and issues were framed at Ex-17.

3. Reference was fixed for recording evidence. However both parties by Ex-56 informed that they have settled in dispute. Hence the order :

ORDER

Vide Ex-56, reference is disposed of.

Camp : Goa

Dated : 27-11-2008

A. A. LAD, Presiding Officer

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2 AT MUMBAI****Reference No. CGIT-2/88/2002**Shri Sanjay Alias Arjun L. DessaiParty No. I
v/s.

Mr. Kala Mines & MineralsParty No. II

**JOINT APPLICATION FOR PASSING NO DISPUTE
AWARD****MAY IT PLEASE YOUR HONOUR**

1. That the Party I above named is represented by
Goa Mining Labour Welfare Union.

2. It is stated the said Union had raised Industrial dispute in respect of termination of services of 21 workmen by Party II on account of closure of the mining activities w.e.f. 25-07-2002 which was referred to this Hon'ble Tribunal for adjudication and numbered as CGIT-2/48/2005. It is stated that name of the Party I is also included in names of 21 Workmen as aforesaid. It is submitted that the parties have, after discussions and deliberations, amicably settled the dispute referred in the present order of reference and entered into a settlement including settlement of all the Claims of the Party I in the present reference. A copy of the Settlement is enclosed herewith. In view of the Settlement as aforesaid Party I, does not wish to proceed further in the matter and Parties pray that **NO DISPUTE AWARD** may be passed in terms of the above.

S/d (Illigible)

Shri Sanjay Alias Arjun L. Dessal

(PARTY I)

For Goa Mining Labour Welfare Union

S/d Genl. (Secetry)

For M/s Kala Mines & Minerals

S/d (Illigible)

Shri Bipinchandra S. Kantak

Partner

(PARTY II)

Vasco Da Gama

18th September, 2008

(Adv. for Party II)

Sd/

(Adv. for workman/Union)

SANJAY alias ARJUN L. DESAI

Retrenchment Compensation	Rs.	23,076
Gratuity		26,626
Bonus for 2001-2002		3,381
Bonus for 2002-2003		1,184
Salary from 8-05-01 to 24-07-02		
14 months @ Rs. 3846		53,844
Salary from 25-07-2002 to 24-06-2008,		
50% of 71 × Rs. 3846		1,36,533
Total		2,44,644
ADD ex-gratia payment		5,356
Total Payable		2,50,000
Less Authorized Union Deduction		
@ 10% of total payable		25,000
Net payable	Rs.	2,25,000

नई दिल्ली, 30 जनवरी, 2009

का.आ. 466. -औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. एच.पी.सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच,

अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या आई डी केस नं.-23/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2009 को प्राप्त हुआ था।

[सं.एल-30012/36/2005-आईआर(एम)]

कमल बाखरु, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 466.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D. Case No.-23/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to management of M/s. H.P.C.L. and their workman, which was received by the Central Government on 30-1-2009.

[No. L-30012/36/2005-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR****Present:**

Shri N.K.R. Mohapatra, Presiding Officer,

Industrial Dispute Case No. 23/2005

Date of Passing Award -21st November, 2008

BETWEEN

The Management of the Sr. Regional Manager,
M/s. Hindustan Petroleum Corporation Ltd.,
Alok Bharati Tower, At./Po./PS. Sahidnagar,
Bhubaneswar, Orissa

... 1st Party-Management

AND

Their workman Shri Susant Kumar Puhan,
At. Angargadia, Udayanagar, P.O./Dist. Balasore,
Orissa, Balasore.

... 2nd Party-Workman

APPEARANCES

Shri S. K. Satpathy ... For the 1st party
Shri Mahendra Singh Management
Shri S. K. Puhan For Himself-2nd
Party Workman

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following disputes for adjudication vide their Order No. L-30012/36/2005 IR (M), dated 1-9-2005.

"Whether the action of the Management of M/s. Hindustan petroleum Corporation Ltd., in relation to

their Somnathpur Depot, Balasore in terminating the service of Shri Susant Kumar Puhan, Workman without following due procedure of law as laid down in I. D. Act is legal and justified? If not, what relief the workman is entitled to?"

2. The case of the workman in short is that, he was engaged by the Regional Manager of the Management-Company to render clerical jobs in its Somnathpur Depot at Balasore with effect from 24-12-1999 and was subsequently terminated from 17-7-2003 without any advance notice or terminal benefits and the wages for the period from 1-7-2003 to 16-7-2003.

3. By disowning his above liability the Senior Regional Manager of the Management-Company alleged in his written statement that the workman was never engaged by him at any time. Rather the services of the workman was requisitioned through a valid handling contractor M/s. M. T. Enterprise for a temporary period to attend to some urgent clerical work and for that the concerned contractor was paid extra money for providing such man-power beyond his contractual obligations and that after the purpose was over the workman was returned back to the contractor concerned and that therefore there was no necessity of paying retrenchment compensation to the workman. It is further alleged by the Management that the allegations of the workman that he was terminated without payment of wages for the period from 1-7-2003 to 16-7-2003 is a matter with which the Management is not concerned in as much as he was never engaged by the Management. In nutshell it is averred that the entire allegations of the workman are false, after-thought and designed to get illegal benefits.

4. On the above pleadings of the parties the following issues were framed.

ISSUES

1. Whether the workman Shri Susant Kumar Puhan was an employee of M/s. Hindustan Petroleum Corporation Limited.
2. Whether the workman was in continuous employment from 24-12-1999 to 16-7-2003 and if so, whether the action of the Management in terminating the service without following section 25-F of the Industrial Disputes Act was justified?
3. If not to what relief the workman is entitled to?
5. Besides producing certain documents the workman has examined himself in support of his claim. The Management has also relied on some documents relating to the procedure to be followed and the powers to be exercised by different officers in the matters of appointment of persons. It has also filed some vouchers in support of payment of money to the contractor towards remuneration of the workman.

FINDINGS

ISSUE NO. 1

6. As regards this issue relating to employment of the workman it is claimed by the workman that he was issued with an appointment letter but no such letter has been produced with an explanation that the same and many other documents were lost during a train journey. This explanation as offered by the workman does not appeal to the conscience in as much as he says to have had not reported the matter to the police. When he has produced Xerox copies of several other documents in an effort to prove his engagement, it is surprising how he could lost his appointment letter alone. Besides when he is silent about such fact in his claim statement that he was issued with an appointment letter and it was lost during rail journey, his above evidence and explanation given during trial stage can hardly be believed that he was issued with an appointment letter. When he says further that in that appointment letter there was no mention of his salary or the period of his engagement that itself indicates that he was not issued with any such appointment letter as claimed by the Management.

7. As regards the nature of job he was entrusted with, the workman deposed that he was maintaining different registers, issuing challans against different oil tankers, preparing modified value added tax, maintaining Sales and Bunkering Challan Register and typing out materials and operating the computer. Without denying the same the Management deposed that one M/s. M. T. Enterprise had taken the contract of loading unloading of trucks and house keeping etc. and therefore at times he was asked to provide man-power to attend urgent nature of work on separate payment basis and accordingly the workman was provided by that contractor to attend to the above work for a temporary period. To establish that he was paid by the management itself but not by the contractor the workman has produced Xerox copies of some receipts carrying the heading "Receipt for cash Disbursed" marked as Ext-1 series. These documents show as if it were granted by the workman himself as a token of receipt of his wages and according to him these Xerox copies were granted to him by the management itself. Challenging the genuineness of these documents the Management on the other hand produced some receipts with similar heading in original granted by the workman and another named Mansing Tudu whom the workman during cross examination of M.W.-1 has admitted to be the owner of M/s. M.T. Enterprise, the contractor. These documents show that after necessary payment these receipts have been defaced with a rubber seal carrying the impression "PAID" and another approval seal of rubber make. But even though the workman claims that Ext.-1 series were provided to him by the Management in Xerox form, none of these carry the impression of any seal suggesting that they have been created by the workman to suit his purpose, as claimed by the Management. Further as per the workman he was the only

persons engaged to look after the Modvet work relating to Central Excise Duty. According to him the Management had paid his wages for the month of July 2002 on his granting a receipt on 10-8-2002, vide Ext.-1/1. But the document Ext.-D, a receipt on original granted by Shri Man Singh Tudu, the Proprietor of M/s. M.T. Enterprise shows that for the self same month of July 2002 he has been paid Rs. 2500 which is equivalent to the salary of the disputant for attending to Modvet and other miscellaneous work. This document further proves that the documents marked as Ext.-1 series which the workman has produced are not genuine but have been crafted and created by him for the purpose of litigation as alleged by the Management. For the above reasons the workman deserves no consideration as he has not approached the Tribunal in a clean hand.

8. On the other hand a scrutiny of the documents such as Ext.-C to C/6 and D to D/7 bring home the conclusion that the workman was never engaged directly by the Management. Rather it shows as claimed by the management, that he was provided by the contractor Shri Mansingh Tudu (the proprietor of M/s. M.T. Enterprise) outside his contractual obligation to attend to the urgent and temporary nature of work of the Management and for that he was being paid separately Rs. 2500 towards the remuneration of the workman.

ISSUE NO. 2 & 3

9. For the discussions made under Issue No.1, these issues need no answer, workman not being clean in his approach.

10. Accordingly the reference is answered with no relief.

N. K. R. MOHAPATRA, Presiding Officer

LIST OF WITNESSES EXAMINED ON BEHALF OF THE 2nd PARTY-WORKMAN.

Shri Susanta Kumar Puhon.

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE 2nd PARTY-WORKMAN.

Ext.-1-Cash disbursement receipts dated 7-7-2003.
 Ext.-1/1 -do- -do- dated 10-8-2002.
 Ext.-1/2 -do- -do- dated 3-6-2003.
 Ext.-1/3 -do- -do- dated 11-5-2003.
 Ext.-1/4 -do- -do- dated 4-4-2003.
 Ext.-1/5 -do- -do- dated 11-3-2003.
 Ext.-1/6 -do- -do- dated 31-3-2003.
 Ext.-1/7 -do- -do- dated 3-1-2003.
 Ext.-1/8 -do- -do- dated 29-11-2002.
 Ext.-1/9 -do- -do- dated Nil
 Ext.-1/10 -do- -do- dated 3-10-2002.
 Ext.-1/11 -do- -do- dated 6-9-2002.
 Ext.-2-Invoice.
 Ext.-2/1 Extract of sales register.
 Ext.-2/2-Copy of wagon register.

Ext.-2/3-Copy of product receipt report.

Ext.-3-Copy of the sales cash control from 13-5-2002 to 17-5-2002.

LIST OF WITNESSES EXHIBITED ON BEHALF OF THE 1st PARTY-MANAGEMENT

M.W.-1-Shri S. Hari Prased.

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE 1st PARTY-MANAGEMENT

Ext.-A-Limites of Authority Manual.
 Ext.-B-Extract of Chapter-I and Chapter-II
 Ext.-C-Copy of bills No.145.
 Ext.-C/1-Copy of bills No.138.
 Ext.-C/2-Copy of bills No.133.
 Ext.-C/3-Copy of Bills No.119.
 Ext.-C/4-Copy of Bills No.153.
 Ext.-C/5-Original bills No.126.
 Ext.-C/6-Original Bills No.109.
 Ext.-D-Cash receipt dated 20-8-2002.
 Ext.-D/1-Cash Receipt dated 10-10-2002.
 Ext.-D/2-Cash Receipt dated 26-11-2002.
 Ext.-D/3-Cash Receipt dated 3-12-2002.
 Ext.-D/4-Cash Receipt dated 18-6-2002.
 Ext.-D/5-Cash Receipt dated 5-9-2001.
 Ext.-D/6-Cash Receipt dated 9-8-2001.
 Ext.-D/7-Cash Receipt dated Nil.

नई दिल्ली, 30 जनवरी, 2009

का.आ. 467.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल वेयरहाउसिंग कॉर्पोरेशन के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं.-1, चंडीगढ़ के पंचाट (संदर्भ संख्या आई डी-59/93) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2009 को प्राप्त हुआ था।

[सं.एल-42012/5/92-आईआर(एम)]

कमल बाखरु, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 467.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. I.D.-59/93) of the Central Government Industrial Tribunal-cum-Labour Court, No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Warehousing Corporation and their workman, which was received by the Central Government on 30-1-2009.

[No. L-42012/5/92-IR(M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

**BEFORE SHRI GYANENDRA KUMAR SHARMA,
PRESIDING OFFICER CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, -1,
CHANDIGARH**

Case No I. D. 59/93

Shri Tawari S/o Shri Naurata Ram, R/o Vill. Meerpur, Via;
Naraingarh, Distt. Ambala

....Applicant

Versus

The Warehouse Manager, Central Warehouse, Naraingarh,
Distt. - Ambala

....Respondent

APPEARANCES

For the workman

Sri D. R. Sharma

For the management

Sri Pardeep Sharma

AWARD

Passed on 20-1-09

The Government of India vide notification no. L-42012/5/92-IR (M) dated 29-4-93 has referred the following industrial dispute for judicial adjudication to this Tribunal:—

“Whether the action of the management of Central Warehousing Corporation in terminating the service of Shri Tawari w.e.f. 30-1-92 is legal, just and valid? If not, then to what relief the workman is entitled to and from which date?”

The main dispute between the workman and the management of respondent Central Warehousing Corporation is whether workman has served for 240 days or more preceding to the date of his termination and whether he was terminated from the services as per the provisions of Industrial Disputes Act.

From the pleadings of parties it is evident that workman worked with the management of respondent in two spans namely from 1-2-85 to 11-6-85 and again from December 1990 to January 1992.

On perusal of evidence of the parties it is also evident that workman has admitted to abandon the services for his personal reasons in June 1985. Thus, he has no right to claim any benefit for his working with the management from 1-2-85 to 11-6-85.

The management has agreed that workman worked with the management from December 1990 to January 1992 but alleged that he has not worked with the management for 240 days or more in the preceding year from the date of termination. Original attendance register is on record. The attendance of the workman from August 1990 to January 1992 had found place in this register. Genuineness of this document has not been challenged by the workman during the proceedings of this case. Rather this document bears the thumb impression of workman. No doubt, there is a

difference of working days if calculated on the basis of photocopies filed by the workman and the original register filed by the workman. The photocopies filed by the workman does not bear the name of any office who maintained it nor the seal or the signature of any authority, whereas, the original register maintained by the management has been filed as such.

On perusal of the original attendance register filed by the management, it is evident that the workman had not completed 240 days with the management in preceding year from the date of his termination. Workman has failed to prove that he had worked for 240 days or more with the management in the preceding year from the date of his termination. He has further failed to establish that any junior to him was given preference in similar nature of work by the management. Accordingly, workman is not entitled for any relief.

The reference is answered accordingly. Central Government be approached for publication of award and, thereafter, file be consigned.

G. K. SHARMA, Presiding Officer

नई दिल्ली, 30 जनवरी, 2009

का.आ. 468.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बरसुआ आयरन माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या आई डी केस नं.-21/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2009 को प्राप्त हुआ था।

[सं.एल-26011/3/2003-आईआर(एम)]

कमल बाखरु, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 468.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. Case No.-21/2003) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Barsua Iron Mines and their workman, which was received by the Central Government on 30-1-2009.

[No. L-26011/3/2003-IR (M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, BHUBANESWAR**

Present : Shri N.K.R. Mohapatra, Presiding Officer,

Industrial Dispute Case No. 21/2003

Date of Passing Award - 16th December 2008

BETWEEN

The Management of the General Manager,
Barsua Iron Mines, RMD, SAIL,
P. O. Tensa, Dist. Sundargarh, Orissa.

... 1st Party-Management

AND

Their Workman Shri Ranjan Munda,
Represented through the General Secretary,
North Orissa Workers Union, P. O. Barbil
Dist. Keonjhar.

... 2nd Party-Union

APPEARANCES

Shri R.C. Tripathy,
Manager, Law

... For the 1st party
Management

Shri B.S. Pati
General Secretary

... For the 2nd
Party-Union

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-26011/3/2003 IR (M), dated 17-6-2003.

"Whether the demand of the General Secretary, North Orissa Workers Union to correct the date of birth of Shri Ranjan Munda, PL No.840420, Barsua Iron Mines as 30-9-1951 as per the appointment letter No. Iron/PNL (KIM)/7, dated 20-10-1982 and medical card issued by the company medical officer is justified? If not what relief the workman is entitled to?

2. The background of the dispute as gathered from the pleadings of the parties is that Barsuan Iron Mines and Kalta Iron Mines belonging to SAIL were earlier kept in 1956 under the administrative control of Hindustan Steel Limited, presently known as Rourkela Steel Plant. After formation of a new division named raw Materials Division, the SAIL placed those mines under the said division free from administrative control of Rourkela Steel Plant, shortly known as RSP.

3. The workman in question initially joined as a piece rated worker on casual basis in 1972 in Kalta Mines and subsequently he was transferred to Barsuan after being regularized. At the time of his initial appointment in 1972 the disputant gave necessary declaration regarding his age etc. It is alleged by the Union that on the basis of said declaration that he was aged about 21 years his date of birth was entered as 30-9-1951 in his service records. When subsequently the workman was appointed on regular basis in 1982 vide Ext.-6 his above date of birth was also reflected in that order. But when the Management without the

knowledge of the workman changed his above date of birth to 10-5-1947, the workman having come to know of the same made a representation and not being successful to re-correct the same raised an Industrial Dispute through the Union. Hence the reference.

4. The Management on the other hand contended that at the time of initial appointment the workman disclosed his age to be 25 years by 1972. During medical test he also disclosed his age to be 25 years and the Doctor concerned also assessed his age on 10-5-1972 as 25 years and accordingly his said age was recorded in his service record. But while giving him permanent employment in 1982 his date of birth was wrongly recorded as 30-5-1951 in the appointment letter Ext.-6. This defect having been detected during verification of the service books, the Management issued a notice to the workman to produce necessary certificate in support of his age. The workman instead of producing any age certificate simply produced the order dated 20-10-1982 (Ext.-6) of the Management by which he was appointed on permanent basis. As the age of the workman as mentioned in that order was a mistaken entry and as except the same no other document was produced by the workman, the Management had to adopt the date of birth as 10-5-1947 as per rule and as such no illegality was committed by the Management.

5. During trial the Union as well as the workman remained continuously absent after filing the claim statement. As a result, the Union was set *ex parte* and the Management was asked to adduce evidence in support of its stand. The Management examined one of its officers besides producing documents marked as Ext.-1 to 9.

6. Ext.-1 is the letter dated 14-4-1972 for temporary appointment of the workman. Ext.-2 is the declaration of the workman made at the time of his initial appointment as a temporary worker, Ext.-3 is the medical test certificate dated 10-5-1972 of the workman, Ext.-4 is the descriptive roll of the workman, Ext.-5 is the management-Company's Rules relating to determination of date of birth, Ext.-6 is the office order dated 20-10-1982 by which the workman was appointed on permanent basis. Ext.-7 is the letter dated 11-12-1998 issued to the workman to produce documentary evidence in support of his age, Ext.-8 is the reply to Ext.-7 and Ext.-9 is the letter dated 9-11-2001 of Management intimating the workman that his date of birth has been determined as 10-5-1947 for all future purposes.

7. On perusal of the above documents especially the declaration of the workman Ext.-2 and his medical fitness certificate Ext.-3 it is clear that when he initially joined in service in 1972 he declared his age as 25 years and the Doctor who examined him medically on 10-5-1972 had also found him aged 25 years. It also shows that at the time of his medical examination the workman had himself disclosed his age as 25 years before the Doctor. These aspects thus nullifies the stand of the Union that at the time of his initial

joining the workman had declared his age as 21 years. The other stand of the Union that the age of the workman was recorded as 21 years in the service record is also found to be incorrect in as much as the descriptive roll (Ext.-4) prepared on 12-5-1972 shows that the age of the workman was never recorded as 21 years as claimed by the Union. But it was recorded as 25 years on the basis of workman's own declaration marked Ext.-2.

8. Therefore, in such circumstances, I find that there was sufficient justification on the part of the Management to assess the date of birth of the workman on the basis of his declaration made at the time of his initial appointment in 1972. Since by the time the workman was subjected to a medical test he was aged about 25 years as on 10-5-1972 his date of birth as per rule 4.7 of Ext.-5, is to be assessed as 10-5-1947. Accordingly, by adopting the said date as the date of birth of the workman the Management is found to have committed no mistake.

9. Thus the reference is answered ex parte against the Union providing no benefit to the workman.

N. K. R. MOHAPATRA, Presiding Officer

LIST OF WITNESSES EXAMINED ON BEHALF OF THE 2ND PARTY-UNION

No witnesses examined on behalf of the 2nd Party-Union.

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE 2ND PARTY-UNION

No Documents exhibited on behalf of the 2nd Party-Union.

LIST OF WITNESSES EXHIBITED ON BEHALF OF THE 1ST PARTY-MANAGEMENT.

M. W.-1-Shri Harihara Mohapatra.

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE 1ST PARTY-MANAGEMENT

Ext.-1-Offer letter of Appointment dated 14-4-1972.

Ext.-2-Declaration dated 24-4-1972.

Ext.-3-Medical Certificate dated 10-5-1972.

Ext.-4-Descriptive roll dated 12-5-1972.

Ext.-5-Rules regarding determination of date of birth.

Ext.-6-Office order dated 20-10-1982.

Ext.-7-Office letter dated 12-12-1998.

Ex-8-Reply dated 23-12-1998 of the disputant.

Ex.-9-Office letter dated 29-11-2001.

नई दिल्ली, 30 जनवरी, 2009

का.आ. 469.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैतरनी आयरन माईन्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या, केस सं.-136/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2009 को प्राप्त हुआ था।

[सं.एल-26012/23/97-आईआर(एम)]

कमल बाखरु, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 469.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. Case No.-136/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to management of Baitarani Iron Mines and their workman, which was received by the Central Government on 30-1-2009.

[No. L-26012/23/97-IR (M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT

Shri N.K.R. Mohapatra, Presiding Officer

Industrial Dispute Case No. 136/2001

Date of Passing Award -15th December 2008

BETWEEN

The Management of the Agent,
Baitarani Iron Mines of Dr. S. Pradhan,
P. O. Barbil, Dist. Keonjhar.

... 1st Party-Management

AND

Their workman Shri Madhusudan Naik,
Vill. 2nd Dhanurjoypur, P. O. Balabhadrapur,
Keonjhar.

... 2nd Party-Workman

APPEARANCES

None

...For the 1st party-
Management

Shri Madhusudan Naik

....For himself the
2nd Party-Workman

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L -26012/23/97-IR (M), dated 20-10-1997.

"Whether the termination of services of Shri Madhusudan Naik, with effect from 20-5-1996 without

giving any notice or following laid down procedure by the Management of Baitarani Iron Mines of Dr. Sarojini Pradhan, P. O. Barbil, Dist. Keonjhar, is justified and proper? If not, what relief the workman is entitled to?"

2. It is alleged by the workman in his Claim Statement that in June, 1994 he was engaged as a piece rated worker along with few others in the Baitarani Mines of the Management for his entry into the mine he was issued with necessary identity card. While he was working as such continuously, the Management created some disturbances with the help of his mining staff on 20-5-1996 and drove him and few others out of the work site by snatching away their working tools etc. As a result he along with other lodged a report before the local police station. At the police station the agent of the mine gave them some assurance for their re-employment but did not do that. Hence the workman raised an Industrial Dispute before the Asstt. Labour Commissioner (Central) claiming that he was illegally terminated. Hence the reference.

3. After receipt the letter of reference the Management appeared and filed his written statement denying the allegations of the workman. It is averred by the Management that the workman was engaged as a piece rated worker on daily rate basis as and when needed. But after working for few months he voluntarily abandoned the job without surrendering the attendance card and as such there was no obligation on the part of the Management to pay him retrenchment compensation etc. as required under section 25-F of the Industrial Disputes Act.

4. Be it noted at the very outset that during pendency of the case the Management objected the engagement of one Shri B. S. Pati, General Secretary of the North Orissa Workers' Union as the representative of the workman. After the above prayer of the Management was allowed, the workman filed O.J.C. 17216/2001 before the Hon'ble High Court challenging the order of the Tribunal. The proceeding was stayed thereafter under the orders of the Hon'ble High Court. While disposing of the said O.J.C. the Hon'ble Court in their order dated 24-7-2008 finally upheld the order of the Tribunal. A copy of the said order was filed before the Tribunal on 17-9-2008 by the disputant on the basis of which the Management was issued with a notice for his participation in the proceeding which he did not comply. As a result he was set ex parte and on 20-11-2008 and the evidence of the disputant was recorded.

5. The workman examined himself alone by producing his identity card (Ext.-D) issued to him by the Management.

6. The evidence on record as adduced by the workman shows that initially himself and few others were engaged as piece rated workers by the Management in 1984 in its Balita Iron Ores Mine and subsequently in 1994 they were taken to another mine namely Baitarani Iron Ores Mine in the district of Keonjhar. It is deposed by the

workman that while he was working in that Baitarani Mine on 20-5-1996 his tools and implements were taken away forcibly by some officers of the Management-Company and then he was refused employment.

7. Ext.-1 shows that the workman was allotted with a B.R. No. 192 and was issued with a permanent I.D. Card which is suggestive of the fact that his engagement was continuous but not intermittent. It is alleged by the Management that the workman had voluntarily abandoned the job from 20-5-1996. But in the absence of any evidence to that effect it cannot be believed. On the other hand the rising of an Industrial Dispute by the workman soon thereafter sufficiently indicates that he would not have abandoned the job voluntarily. Therefore, it is held that the workman was refused employment from 20-5-1996 as claimed by him.

8. The evidence of the workman shows that in June, 1994 he was taken as a regular piece rated worker and on 20-5-1996 he was refused employment without any notice or retrenchment benefits. In these circumstances the action of the Management is held to be bad under law. He is directed to reinstate the workman with full back wages calculated from 20-5-1996 or to pay a consolidated compensation of Rs. 25,000 in lieu thereof within a period of two months from the date of communication of this award.

9. The reference is answered accordingly.

N. K. R. MOHAPATRA, Presiding Officer

LIST OF WITNESSES EXAMINED ON BEHALF OF THE 2ND PARTY-WORKMAN.

W.W.-1- Shri Madhusudhan Naik.

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE 2ND PARTY-WORKMAN.

Ext.-1- Identity Card issued to Shri Madhusudhan Naik.

LIST OF WITNESSES EXHIBITED ON BEHALF OF THE 1ST PARTY-MANAGEMENT

No witnesses examined on behalf of the Management.

LIST OF DOCUMENTS EXHIBITED ON BEHALF OF THE 1ST PARTY-MANAGEMENT

No documents exhibited on behalf of the Management.

नई दिल्ली, 30 जनवरी, 2009

का.आ. 470.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. ड्राईमण्ड सिमेन्ट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या सीजीआई टी/एलसी/आर/166/99) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30-1-2009 को प्राप्त हुआ था।

[सं.एल-29012/178/98-आईआर(एम)]

कमल बाखरु, डेस्क अधिकारी

New Delhi, the 30th January, 2009

S.O. 470.—In Pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. CGIT/LC/R/166/99) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to management of M/s. Diamond Cement and their workman, which was received by the Central Government on 30-1-2009.

[No. L-29012/178/98-IR (M)]

KAMAL BAKHRU, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/166/99

Presiding Officer : Shri C. M. Singh

Shri A. V. Radhakrishnan,
Workers Colony,
Diamond Cement,
Narsingarh
Damoh

... Workman/Union

Versus

The Vice President,
Diamond Cement,
Narsingarh

... Management

AWARD

Passed on this 24th day of December, 2008

The Government of India, Ministry of Labour vide its Notification No. L-29012/178/98-IR (M) dated 20-4-99 has referred the following dispute for adjudication by this tribunal:—

“Whether the action of the management of M/s Diamond Cement, Narsingarh in dismissing Shri A. V. Radhakrishnan from service vide letter No. 37038 dated 29-6-98 is legal and justified? If not, to what relief the workman is entitled?”

2. Vide order dated 15-12-05 passed on the ordersheet of this proceeding, the reference proceeded exparte against workman Shri A. V. Radhakrishnan. No Statement of claim has been filed on behalf of workman Shri A. V. Radhakrishnan.

3. The case of the management in brief is as follows. That the workman used to remain absent from duty unauthorisely without any prior intimation or sanctioned leave. He has committed gross misconduct and therefore he was issued with chargesheet and as DE was conducted

against him according to rules. He was found guilty of the charges of misconduct of remaining absent unauthorisely from duty without any intimation. After completing all the legal formalities, the management dismissed his services vide letter No. 37038 dated 29-6-98.

4. The management in order to prove their case filed affidavit of their witness Shri R. S. Shekhawat, then working as General Manager (Legal and Personnel) in Diamond Cements.

5. After having gone through the exparte argument advanced by Shri A. K. Shashi, Advocate for management and after having considered the evidence on record, I am of the view that the management has succeeded in proving their case by the affidavit of their witness Shri R. S. Shekhawat whose affidavit has remained uncontroverted and unchallenged. Therefore the reference deserves to be decided in favour of the management and against the workman without any ordes as to costs.

6. In view of the above, the reference is decided in favour of the management and against workman Shri A. V. Radhakrishnan without any orders as to costs holding that the action of the management of M/S Diamond Cement, Narsingarh in dismissing Shri A. V. Radhakrishnan from service vide letter No. 37038 dated 29-6-98 is legal and justified and consequently the workman is not entitled to any relief.

7. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

C. M. SINGH, Presiding Officer

नई दिल्ली, 4 फरवरी, 2009

का. आ. 471.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा- (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2009 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अर्चाय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अर्चाय-5 और 6 (धारा-76 की उप धारा- (1) और धारा-77,78,79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात:—

“आन्ध्र प्रदेश राज्य के पश्चिम गोदावरी जिले के भीमवरम् मण्डलम् में स्थित ताडेरू, रायलम तथा एनमदुरु राजस्व गाँव के अंतर्गत आने वाले सभी क्षेत्र एवं पालकोडेरू मण्डलम् के गोल्लकोडेरू राजस्व गाँव के अंतर्गत आने वाले सभी क्षेत्र ।”

[सं. एस-38013/01/2009-एस.एस. I]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 4th February, 2009

S. O. 471.— In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State

Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2009 as the date on which the provisions of Chapter IV (except Section 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely:-

"All the areas falling within the Revenue Villages of TADERU, RAYALAM AND YANAMADURRU OF BHIMAVARAM MANDALAMAND GOLLAKODERU REVENUE VILLAGE OF PALAKODERU MANDALAM OF WEST GODAVARI DISTRICT IN ANDHRA PRADESH STATE."

[No. S-38013/01/2009-S.S.I]

S. D. XAVIER, Under Secy.

नई दिल्ली, 5 फरवरी, 2009

का. आ. 472.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा- (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2009 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप धारा- (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:-

"आन्ध्र प्रदेश के विजयनगर जिले के सालूर राजस्व गाँव सालूर मण्डल के नेल्लिपथी, जिजिरम, गुमडम, दुग्दासगरम, पि. एन. बुद्धावालासा, कुमाराजीपेटा, मुग्दावालासा, शिवरामपुरा, परन्नावालासा, कोथवालासा, कोडूकाराकावालासा, चदरप्पावालासा और देवुबुचमपेटा।"

[सं. एस-38013/03/2009-एस.एस. I]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 5th February, 2009

S. O. 472.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2009 as the date on which the provisions of Chapter IV (except Section 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely:—

"All the areas falling within the limits of Revenue Villages of Salur, Nelliparthi, Jeegiram, Gumadam, Dugdasagaram, P. N. Boddavalasa, Kurmarajipeta, Mugadavalasa, Shivram-Puram, Parannavalasa,

Kothavalasa, Kodukarakavalasa, Chadrappa Valasa and Devubutchampet of Salur Mandal Vizianagaram District in Andhra Pradesh.

[No. S-38013/03/2009-S.S.I]

S. D. XAVIER, Under Secy.

नई दिल्ली, 5 फरवरी, 2009

का. आ. 473.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा- (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2009 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप धारा- (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध आन्ध्र प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:-

"आन्ध्र प्रदेश में कडपा जिले के एरगुंटला मण्डल में स्थित कालमल्ला, गोपुलापुरम्, चिन्नदन्दुलूर, इल्लूरु, मलपाडु, हनुमानगुटी, के.जी.पी. पल्लि, निडिजिप्पी, वलसपल्लि, टी. सुंकेसुला और तिप्पलूर, राजस्व गाँव की सीमा के अन्तर्गत आने वाले सभी क्षेत्र।

आन्ध्र प्रदेश में कडपा जिले के मुद्दनूर मण्डल के मुद्दनूर राजस्व गाँव की सीमा के अन्तर्गत आने वाले सभी क्षेत्र।"

[सं. एस-38013/02/2009-एस.एस. I]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 5th February, 2009

S. O. 473.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2009 as the date on which the provisions of Chapter IV (except Section 44 and 45 which have already been brought into force) and Chapter-V and VI (except Sub-Section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Andhra Pradesh namely:—

1. "All the areas falling within the limits of Revenue Villages of Kalamalla, Gopulapuram Chinnadandlura, Illuru, Malpadu, Hanumanguthy, K.G.V. Palli, Nidizivvi, Valasapalli, T. Sunkesula and Tippalur of Yerraguntla Mandal in Kadapa District, Andhra Pradesh.

2. "All the areas falling within the limits of Revenue Village of Muddanur of Muddanur Mandal in Kadapa District, Andhra Pradesh.

[No. S-38013/02/2009-S.S.I]

S. D. XAVIER, Under Secy.

नई दिल्ली, 5 फरवरी, 2009

का. आ. 474.—कर्मचारी राज्य बीमा अधिनियम 1948 (1948 का 34) की धारा-1 की उप धारा- (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2009 को उस

तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप-धारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध पश्चिम बंगाल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:-

“जिला जलपाईगुड़ी के बिन्नागुड़ी एवं बोलीगच मौजा के क्षेत्रों को शामिल करके।”

[सं. एस-38013/04/2009-एस.एस. I]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 5th February, 2009

S. O. 474.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2009 as the date on which the provisions of Chapter IV (except Section 44 and 45 which have already been brought into force) and Chapter-V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of West Bengal namely:—

“Areas Comprising Mouzas of Binnaguri And Boligach in the District of Jalpaiguri.”

[No. S-38013/04/2009-S. S. I]

S. D. XAVIER, Under Secy.

नई दिल्ली, 5 फरवरी, 2009

का. आ. 475.—कर्मचारी राज्य बीमा अधिनियम 1948 (1948 का 34) की धारा-1 की उप धारा- (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2009 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के

अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है) अध्याय-5 और 6 (धारा-76 की उप धारा- (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्:-

केन्द्र

तुतुकोरिन जिला के
ओट्टपिडारम तालुक
के तुतुकोरिन परिधि के क्षेत्र

1. पुदुरपाण्डियपुरम

2. मेल अरसडी

3. मेल मरुदूर

आदि के अन्तर्गत आने
वाले राजस्व गाँव

[सं. एस-38013/05/2009-एस.एस. I]

एस. डी. जेवियर, अवर सचिव

New Delhi, the 5th February, 2009

S. O. 475.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2009 as the date on which the provisions of Chapter IV (except Section 44 and 45 which have already been brought into force) and Chapter-V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamil Nadu namely:-

Centre

Areas Comprising the
Revenue Villages of

Peripheral Areas of
Tuticorin, Ottapidaram
Taluk, Tuticorin District.

1. Pudurpandiapuram

2. Mela Arasadi

3. Mela Marudur

[No. S-38013/05/2009-S. S. I]

S. D. XAVIER, Under Secy.